

CHAPTER 179 ZONING

[HISTORY: Adopted by the Common Council of the City of Rensselaer 5-5-1971 ; amended in its entirety 1-17-1979 by L.L. No. 1-1979 . Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. [5](#).

Planning Commission — See Ch. [39](#).

Billboards — See Ch. [77](#).

Environmental quality review — See Ch. [93](#).

Fire prevention and building construction — See Ch. [101](#).

Flood damage prevention — See Ch. [105](#).

Storage of hazardous materials — See Ch. [117](#).

Stormwater management — See Ch. [145](#).

Swimming pools — See Ch. [151](#).

ARTICLE I General Provisions (§ 179-1 — § 179-3)**§ 179-1 Title.**

This chapter shall be known and may be cited as the "Zoning Law of the City of Rensselaer, New York."

§ 179-2 Scope.

This chapter regulates and restricts the location, construction, alteration, occupancy and use of buildings and structures and the use of land within the City of Rensselaer and for said purposes divides the City into zoning districts.

§ 179-3 Purpose.

This chapter is enacted pursuant to the General City Law of the State of New York to promote and protect the public health, safety and general welfare, specifically including the following additional purposes:

A.

To protect the character and maintain the stability of residential, commercial and industrial areas within the City and to promote the orderly and beneficial development of such areas.

B.

To regulate the intensity of use and to prescribe the area of open spaces surrounding buildings necessary to provide adequate light and air, to provide privacy and convenience of access and to protect the public health.

C.

To regulate the location of buildings and to fix reasonable standards for development to which structures and uses shall conform.

D.

To prohibit uses, buildings and structures which are incompatible with the character of development or the permitted uses within specified zoning districts.

E.

To prevent such additions to, and alteration of, existing buildings and structures as would not comply with the restrictions and limitations imposed hereunder, including the gradual elimination of nonconforming uses.

F.

To limit congestion in the public streets by providing for adequate off-street parking of motor vehicles and for the loading and unloading of commercial vehicles.

G.

To provide protection against fire, explosion, noxious fumes and similar hazards.

H.

To conserve the taxable value of land and buildings throughout the City while enhancing the appearance of the City as a whole.

I.

To protect the general environment and to achieve compliance with the objectives of applicable state and federal regulatory programs.

ARTICLE II Word Usage and Definitions (§ 179-4 — § 179-5)**§ 179-4 Word usage.**

Words used in the present tense include the future; the singular number includes the plural and the plural number includes the singular; the word "lot" includes the word "plot"; the word "structure" includes the word "building." The term "occupied" or "used" as applied to any building or land shall be construed to include "arranged," "designed," "constructed," altered," "converted," "rented," "leased" or "intended to be used or occupied." The word "shall" is mandatory and not optional.

§ 179-5 Definitions.

Unless otherwise expressly stated, the following terms shall, for the purposes of this chapter, have the meaning herein indicated:

ACCESSORY STRUCTURE OR USE

A structure or use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use.

ALTERATION

As applied to a building or structure, a change or rearrangement in the structural parts of a building or an enlargement, whether by extending on the front or rear or on a side or by increasing the height or the moving of such structure from one location or position to another.

AREA AND BULK REGULATIONS

The combination of controls which establish the minimum size of a lot and the maximum size of a building and its location on such lot.

AUTOMOBILE SERVICE STATION

Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including the sale of motor vehicle accessories, and which may or may not include facilities for lubricating and other minor servicing of motor vehicles but not including the painting thereof by any means. Any rebuilding, reconditioning or collision services involving frame and fender straightening or repair or any dismantling or disassembly of frame and exterior parts is not an automobile service station.

BILLBOARD (SIGN ADVERTISING)

A sign or structure which directs attention to an idea, product, business activity, service or entertainment which is primarily conducted, sold or offered elsewhere than upon the premises on which such sign is located, or to which it is affixed.

BOARDING-, LODGING OR ROOMING HOUSE

A private dwelling in which at least two but not more than six rooms are offered for rent, whether or not table board is furnished to lodgers, and in which no transients are accommodated and no public restaurant is maintained.

BOARD OF APPEALS

The Zoning Board of Appeals of the City of Rensselaer as provided for in Article [XI](#) of this chapter.

BUFFER ZONE

A strip of land, identified in this chapter, established to protect one type of land use from another with which it is incompatible.

BUILDABLE AREA

The space remaining on a lot after the minimum open space requirements (coverage, yards or setbacks) have been met.

BUILDING

Any structure of more or less permanent construction which is permanently affixed to the land, wholly or partially enclosed within exterior walls and a roof, affording shelter to persons, animals, property or business activity.

BUILDING AND ZONING ADMINISTRATOR

That City employee within the Rensselaer Planning and Development Agency appointed by the Mayor and charged with the responsibility for administering and enforcing this chapter as well as the City's Building Code, Housing Code and related regulations.

BUILDING COVERAGE

The amount of land covered or permitted to be covered by a building or buildings, measured in terms of a percentage of the total lot area, such coverage to be measured on a horizontal plane at mean grade level and excludes uncovered porches, terraces and steps.

CERTIFICATE OF OCCUPANCY

Official certification that a premises conforms to the provisions of the Zoning Law, Building Code and other applicable regulations and may be used or occupied.

CLUB, MEMBERSHIP

Premises of an organization of persons who meet periodically to promote some nonprofit, social, educational, athletic, service or recreational objective and who cater exclusively to members and their guests.

CLUSTER DEVELOPMENT

A development pattern in which uses are grouped or clustered through a density transfer within a particular development, rather than spread evenly throughout a parcel as in conventional lot-by-lot development.

COMPREHENSIVE PLAN

A document or series of documents prepared by the Planning Commission and Planning and Development Agency setting forth policies for the future growth and development of the City. Such plan may be officially adopted by the Common Council.

CONVERSION

A change in use or occupancy of a building, generally by alteration or by other reorganization as to increase the number of families or dwelling units in a structure.

CORNER LOT

A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135°. The point of intersection of the street right-of-way lines is the "corner."

DENSITY

The ratio of lot area per family or dwelling unit on a lot.

DEVELOPMENT

The establishment of a use on a lot or in relation to a structure, or the erecting or structural alteration of a structure.

DIRECTOR OF PLANNING AND DEVELOPMENT

The Director of the Rensselaer Planning and Development Agency, as appointed by the Mayor.

DISTRICT

An area or zone of the City within which uniform requirements regulate the use of land and the height, bulk, density and setback of structures.

DRIVE-IN ESTABLISHMENT

A premises constructed to cater to the motoring public, whether or not serving pedestrians as well as automobile trade, and used for the sale to the public of any product and providing curb or window service.

DWELLING

A building designed or used principally as the living quarters for one or more families.

A.**DWELLING, ONE-FAMILY**

— A detached building containing one dwelling unit only.

B.**DWELLING, TWO-FAMILY**

— A detached or semidetached building containing two dwelling units only.

C.**DWELLING, MULTIPLE**

— A detached, semidetached or attached building or portion thereof containing three or more dwelling units.

D.**DWELLING, ROW OR ATTACHED**

— A one-family dwelling with party walls separating it from adjacent units on both sides.

DWELLING UNIT

A building or entirely self-contained portion thereof containing complete, separate, independent housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space, other than vestibules, entrance or other hallways or porches, or cooking or sanitary facilities in common with any other dwelling unit. A boardinghouse, dormitory, motel, inn, nursing home, fraternity, sorority or other similar building shall not be deemed to constitute a dwelling unit.

FAMILY

One or more than one person occupying a dwelling unit and living as a single nonprofit housekeeping unit with not more than four roomers, boarders or lodgers. A "roomer, lodger or boarder residing with a family" shall mean a person or group of persons residing within a household, not related by blood, marriage or adoption to the nonprofit housekeeping unit, who pay a valuable consideration for such residence and who do not occupy such space within the household as an incident of employment therein.

FENCE

An unroofed, enclosing structure erected for the purpose of preventing passage or view.

FLOOD, ONE-HUNDRED-YEAR

The highest level of flood that, on the average, is likely to occur once every 100 years (i.e., that has a one-percent chance of occurring each year).

FLOODPLAIN AREA WITH SPECIAL FLOOD HAZARDS

The maximum area of the floodplain that, on the average, is likely to be flooded once every 100 years (i.e., that has a one-percent chance of being flooded every year).

FLOODPLAIN OR FLOOD-PRONE AREAS

A land area adjoining a river, stream, watercourse or lake which is likely to be flooded.

FLOODPROOFING

Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

FLOOD PROTECTION ELEVATION

The one-hundred-year flood elevation plus one additional foot of elevation.

FLOODWAY

The channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of a given magnitude.

FLOOR AREA

The sum of the gross horizontal area of the floor or floors of a building as measured from the exterior faces of exterior walls or from the center line of walls separating two buildings. Floor space shared in common with other dwelling units or used for storage purposes or the operation and maintenance of the building shall not be included in computing "floor area."

FLOOR AREA, LIVABLE

The sum of the gross horizontal area of a dwelling unit measured from the exterior walls or from the center of a party wall, excluding roof, cellar and garage. "Livable floor area" shall include spaces such as utility rooms, bathrooms, closets, hallways and attic space having a clear height of at least six feet from the finished floor level to the pitch of the roof rafter, with a clear height of seven feet six inches from the finished floor level to the ceiling level over 50% of the area of such attic space.

FRONTAGE

That side of the lot nearest the street. A corner lot shall be considered to have two such frontages.

GARAGE, PRIVATE

An enclosed space for the storage of one or more vehicles, provided that no business, occupation or service is conducted for profit therein, nor space therein for more than one car is leased to a nonresident of the premises.

GARAGE, PUBLIC

Any garage other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

GRADE, FINISHED

The elevation at which the finished surface of the surrounding lot intersects the walls and supports of a structure.

HEIGHT, BUILDING

The vertical distance measured from the mean elevation of the finished grade along the side of the building with the lowest finished grade to the highest point on the coping of flat roofs, to the deck line of mansard roofs and the average height between eaves and ridge for gable, hip and gambrel roofs, but not including chimneys, spires, towers, elevator penthouses, tanks and similar projections.

HOME OCCUPATION

A profession or other occupation customarily conducted within a dwelling by one or more members of the family residing therein and clearly incidental to the principal use of the lot for residential purposes. In particular, "home occupation" includes but is not limited to art studios; dressmaking; teaching, with musical or dancing instruction limited to a single pupil at a time; the offices of a clergyman, lawyer, physician, dentist, architect, engineer, optician, realtor or accountant; or plumbing and electrical contractors, barbershops, beauty parlors or similar uses; but shall not include animal hospitals or dog kennels, automotive repair service, restaurants, clinics or hospitals or similar uses.

HOTEL

A building or any part thereof which contains living and sleeping accommodations for transient occupancy and has a common exterior entrance or entrances.

JUNKYARD

An area of land with or without buildings used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded materials such as wastepaper, rags or scrap material or used building materials, house furnishings, machinery or parts thereof, with or without dismantling, processing salvage, sale or other use or disposition of the same.

JUNKYARD, MOTOR VEHICLE

An area of land with or without buildings used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded motor vehicles or parts thereof, with or without the dismantling, wrecking, salvage, sale or other use or disposition of the same. A deposit, collection or storage on a lot of two or more motor vehicles or parts thereof no longer in condition for legal use in the public highways for one week or more in a residential district or for three weeks or more in any nonresidential district shall constitute a "motor vehicle junkyard."

LOT

A parcel of land having defined boundaries and considered as a unit, devoted to a specific use or occupied by a structure or group of structures that are united by a common interest, use or ownership, and including customary accessory structures, uses, open spaces and yards.

LOT AREA

The total area of a lot within lot lines.

LOT DEPTH

The minimum horizontal distance from the street line of a lot to the rear lot line of such lot, measured in the general direction of the side lot lines.

LOT OF RECORD

A legally existing lot at the time of adoption of this chapter, duly filed and recorded in the Rensselaer County Clerk's office as either an individual parcel of land or part of an approved subdivision.

LOT WIDTH

The minimum horizontal distance between the side lot lines measured at right angles to the lot depth.

MOBILE HOME

Any vehicle or combination thereof used, designed, for use or capable of being used as sleeping or living quarters, either propelled by its own power or the power of another vehicle to which it may be attached. Any addition to such mobile home shall, for the purposes of this chapter, be deemed to be part of such mobile home.

NONCONFORMING USE

An existing use which does not conform to the applicable use regulations for the district in which such use is located after the enactment or amendment of this chapter.

NONCOMPLYING BUILDING OR USE

An existing building or use which contains a use permitted in the district in which it is located, but which does not conform to the district regulations for lot area, width or depth; front, side or rear yards; maximum height; lot coverage; or minimum livable floor area per dwelling unit after the enactment or amendment of this chapter.

NURSERY SCHOOL

Premises which operate on a regular basis to provide daytime care or instruction for five or more children under six years of age. The term "nursery school" shall include kindergarten, day nursery, day-care center and family day care.

NURSING HOME

Premises which provide lodging, meals, and continuing nursing care, for compensation, to convalescent or chronically ill persons. The term "nursing home" shall include convalescent home and rest home.

OPEN AREA, REQUIRED

The area of a lot which shall be a properly maintained combination of natural (not artificial) lawn, trees, shrubs and other plant material.

PARKING LOT

Land which is open or semienclosed by structures and which is used to provide four or more off-street parking spaces.

PARKING SPACE, OFF-STREET

A space which is out of the public right-of-way and is available and adequate for the parking of one motor vehicle.

PERMITTED USE

A specific use to which land, lots, buildings or structures may be used, occupied or maintained under this chapter as a matter of right.

PLANNED DEVELOPMENT

A structure or group of structures designed to be maintained and operated as a unit in single ownership or control by an individual, partnership, corporation or cooperative and which has certain facilities in common such as yards, open space, recreation areas, garages and parking facilities.

PLANNING COMMISSION

The Planning Commission of the City of Rensselaer.

PREMISES

A lot, together with all the structures and uses thereon.

PRINCIPAL BUILDING OR USE

The main or primary building or use on a lot.

PROHIBITED USE

Any use which is not listed as a permitted, special or accessory use in the Schedule of Use Regulations shall be considered a "prohibited use" under this chapter.

SCHEDULE OF USE REGULATIONS

The controls which enumerate the permitted principal, permitted accessory and special uses within each of the districts established by this chapter.

Editor's Note: The Schedule of Use Regulations is included at the end of this chapter.

SETBACK

The minimum horizontal distance from the property line to any structure, roadway, parking area, accessory building or other such improvement, except necessary driveways.

SHOPPING CENTER

A tract of land with buildings or structures, planned as a whole and intended for one or more establishments for retail, office or allied purposes, on a site of 40,000 square feet or more.

SIGN

Any material, structure or device or part thereof composed of lettered or pictorial matter which is located out of doors or on the exterior of any building, including illuminated window signs over two square feet in area located within three feet of the window surface and intended to be viewed from the exterior of the building, displaying an advertisement, announcement, notice or name, and includes sign frames, billboards, signboards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs or ground signs, and shall include any declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business or cause when the same is placed in view of the general public. However, a "sign" shall not include any display of official court or public office notices or any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious group.

SIGN, ACCESSORY

A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

SIGN, FREESTANDING

A sign supported by a pylon, pole, upright or brace placed in the ground and which stands free of a building and/or other structure.

SIGN, ILLUMINATED

A sign illuminated by electricity, gas or other artificial light, either from the interior or exterior of the sign, and including reflective and phosphorescent light.

SIGN, NONACCESSORY

A sign or structure, including but not restricted to billboards, which directs attention to an idea, product, business activity, service or entertainment which is primarily conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

SIGN, OBSOLETE

A sign that advertises a nonexistent product, place or event.

SIGN, SURFACE AREA OF

The entire area within a single, continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of the same.

However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. Only one side of a double-faced sign shall be included as surface area of such sign.

SITE PLAN

That map or drawing and related information submitted for review by the Planning Commission in accordance with the requirements and procedure specified in Article [VII](#) of this chapter.

SPECIAL USE

A use which is deemed desirable for the public welfare within a given district or districts, but which is potentially incompatible with other uses provided therein. The use shall be therefore subject to approval by the Planning Commission and to conditions set forth for such use as well as the other applicable provisions of this chapter.

SPECIAL USE PERMIT

That permit, issued by the Planning Commission according to the requirements and procedure established by Article [VI](#) of this chapter, authorizing the commencement of a particular special use.

STORY

That part of any building, exclusive of cellars but inclusive of basements, comprised between the levels of one finished floor and the level of the next highest finished floor, or if there be no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

STREET

A public or private way which affords principal means of access to abutting properties.

STREET LINE

The dividing line between a lot and a street right-of-way.

STRUCTURE

A static construction of materials, the use of which requires a fixed location on the ground or attachment to an object having such fixed location. "Structures" shall include, among others, buildings, stadiums, sheds, storage bins, reviewing and display stands, platforms, towers, walls, fences, swimming pools, gasoline pumps, billboards, signs and mobile dwellings.

SWIMMING POOL

Any outdoor pool, tank, depression or excavation, for the specific purpose of swimming, that causes the retaining of water to a greater depth than 18 inches and having a surface of water greater than 100 square feet.

USE

The specific purpose or activity for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

VARIANCE

A modification of the use and/or area and bulk regulations of this chapter in an individual case where, due to specific facts and conditions peculiar to a particular property, literal application and strict enforcement would result in undue and unnecessary hardship or practical difficulty that would deprive the owner of reasonable use of the land or structures. Such unnecessary hardship or practical difficulty shall not be construed to include mere inconvenience or a desire to make more money.

VARIANCE, AREA

A variance from the area and bulk requirements or supplementary regulations of a related character (such as amount, size, location or design of access, off-street parking, landscaping or signs) to authorize on a specific lot a permitted use which could not feasibly be established without relief from one or more of the dimensional requirements pertaining to the district.

VARIANCE, USE

A variance from the use regulations to allow the establishment on a specific lot of a use otherwise prohibited in the district.

YARD

An open space on the same lot with a building or building group lying between the closest point of the front, rear or side wall of a building and the nearest lot line, unoccupied and fully open to the sky, except as otherwise provided by the specific provisions of this chapter.

YARD, FRONT

A yard extending across the principal street side of a lot measured between the side yard lines, the depth of which yard is the minimum horizontal distance between the street line and the main building.

YARD, REAR

A yard extending across the full width of a lot measured between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building.

YARD, SIDE

A yard between any lot line other than street line or rear lot line and a line drawn parallel thereto and between the front and rear yards.

ZONING MAP

The map delineating the boundaries of the zoning districts which, along with the zoning text, comprises this chapter.

ARTICLE III Establishment of Districts (§ 179-6 — § 179-11)**§ 179-6 § 179-6. Districts enumerated.****A.**

The City of Rensselaer is hereby divided into the following zoning districts:

	R1	Single-Family Residential District	<u>B.</u> These overlay districts are also hereby created:			
	R2	Two-Family Residential District				
	R3	Multiple-Family Residential District			FF	Flood
	HR	Historic Residential District			CSt	Colun
	LB	Local Business District	location and boundaries of said districts are established on the Zoning Map of the City of Rensselaer. Said map, together with all explanatory matter thereon and all amendments thereto, is hereby declared to be an appurtenant part of this chapter. Said map shall be kept up-to-date and be located in the offices of the City Clerk for the use and benefit of the public. A copy shall also be maintained in the office of the Director of Planning and Development.			
	LB2	Local Business 2 District				
	CI	Commercial Industrial District				
	HC	Historic-Commercial District				
	I	Heavy Industrial District				
	LC	Land Conservation District				
	FW	Floodway District				
	PD	Planned Development District				
	PBD-1	Professional Business District No. 1 [Added 6-3-1998 by L.L. No. 10-1998]				
	PBD-2	Professional Business District No. 2 [Added 6-3-1998 by L.L. No. 10-1998]				
	PDMR-4	Planned Development Multi-Residence 4 [Added 2-16-2000 by L.L. No. 1-2000]				

does not follow such a line, its location shall be shown on the Zoning Map by a specific dimension expressing its distance, in feet, from a street line or other boundary line as indicated.

B.

Where a district boundary divides a single lot in a single or joint ownership of record at the time such boundary is established, the regulations for the less-restricted portion of such lot may, at the owner's discretion and with the exception of the Flood-Fringe and Columbia Street Overlay Districts, extend not more than 30 feet into the more-restricted portion, provided that the lot has street or highway frontage in the less-restricted area.

§ 179-9 Delineation of flood hazard zones.

The boundaries of the special flood hazard zones (FW and FF) are established herein as delineated on the most current edition of the appropriate Federal Insurance Administration Flood Hazard Boundary Map, as issued for the City of Rensselaer by the United States Department of Housing and Urban Development. Any revisions, amendments or successors thereto, with all explanatory matter thereon, are hereby adopted and made a part of this chapter. The latest edition of said map shall be kept on file in the offices of the City Clerk and the Director of Planning and Development for the use and benefit of the public. Until such time as the Floodway (FW) District has been delineated, any area possessing an identified flood hazard shall be governed by the regulations of the Flood-Fringe Overlay (FF) District.

§ 179-10 Classification of annexed lands.

[Amended 2-21-2007 by L.L. No. 7-2006]

Any land hereafter annexed to or consolidated with the City of Rensselaer shall be deemed zoned in accordance with the use classification that is most consistent with current use of the Property prior to the annexation, as determined by the Common Council. In the case of vacant land, the zoning classification of such vacant land shall be classified under the Zoning Ordinance of the City in accordance with the zoning classification of the municipality from which such vacant land is annexed from. All lands annexed by the City shall be entitled to the benefit of any and all permits and nonconforming use status for the annexed land from the municipality from which the property is being annexed and which permits and nonconforming uses will be expressly accepted and recognized by the City of Rensselaer.

§ 179-11 Delineation of Columbia Street Overlay District.

The boundaries of the Columbia Street Overlay District (CSt) are established herein as follows: Columbia Street, south from the City line, north to the intersection of Broadway and east and west of Columbia Street to a depth of no more than the rear property lines of those specific lots, and including only those specific lots, which are presently existing of record at the time of the adoption of this amendment; and excepting any portion of any lots located within the Historic Residential District. The affected underlying zones are Commercial-Industrial and Local Business and Local Business 2.

ARTICLE IV District Regulations (§ 179-12 — § 179-19)**§ 179-12 Schedules of regulations.**

The general development regulations in each zoning district are set forth in the attached Use and Area and Bulk Schedules.

Editor's Note: The Schedule of Use Regulations and the Schedule of Area and Bulk Regulations are included at the end of this chapter.

§ 179-13 Applicability of regulations.

Except as hereinafter otherwise provided:

- A.
No building or structure shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land, building or structure be designed, used or intended to be used for any purpose or in any manner except in conformance with the regulations specified herein for the district in which it is located.
- B.
No yard or existing lot at the time of passage of this chapter shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter.
- C.
No part of any yard or other open space required in connection with any building or use shall be considered as providing part of a yard or other open space similarly required for another building.
- D.
No off-street parking or loading space required for one building or use shall be included as meeting, in whole or in part, the off-street parking or loading space required for another building or use, except as otherwise provided by this chapter.
- E.
There shall be not more than one principal building and one principal use, nor more than two accessory structures, of which no more than one shall be a private garage, on each lot intended or used for residential purposes, except as provided within Article [VIII](#) of this chapter.
- F.
Within each district, the regulations set forth by this chapter shall be considered minimum regulations and shall apply uniformly to each kind of building, structure or land.

§ 179-14 Lot regulations.

- A.
Existing lots of record. A single-family structure may be constructed on any existing lot of record in any residential district if said lot is less than the minimum area required for building lots in the residential district in which it is located, provided that the following conditions either exist or are met:
- (1).
No structure shall be erected on any nonconforming existing lot of record if the owner of said lot owns any adjoining vacant land which would create a conforming, or less nonconforming, lot if said vacant land were combined with the lot deficient in area.
- (2).
No structure shall be erected on a nonconforming existing lot of record unless it shall have a minimum side yard of three feet or a minimum side yard of 10 feet where adjacent to any street.
- (3).
No structure shall be erected on a nonconforming lot of record unless it shall have front and rear yards conforming to the minimum required for the residential district in which said lot is located, except as said lot may meet the conditions set forth in [§ 179-16](#).
- B.
Lot width. The minimum lot width of any lot shall be measured along the minimum building setback line as required for the district in which it is located.
- C.
Corner lots. At all street intersections, no obstruction to vision, other than an existing building, post, column or tree, exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between the points along such street lot lines 30 feet distant from their points of intersection.
- D.
Through lots. Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street or alley, the widest street shall be deemed the street upon which the property fronts, and no principal structure and no dwelling shall be erected on the rear of such a lot, except where such lot may be subdivided to create not less than two conforming lots. Where a single lot extends between two streets of equal width, either street may be deemed as that upon which the property fronts, but only one street shall be so deemed.
- E.
Required area shall not be reduced. The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required by this chapter except as provided in this chapter, and if already less than the minimum required by this chapter, said area or dimension may be continued but shall not be further reduced.

§ 179-15 Height regulations.

- A.
General application. No building or structure shall have a greater number of stories nor have an aggregate height of a greater number of feet than is permitted in the district in which such building or structure is located, except as noted elsewhere in this chapter.
- B.
Permitted exceptions to height regulations.
- (1).
Chimneys, cooling towers, elevators, bulkheads, fire towers, gas tanks, grain elevators, steeples, penthouses, tanks, water towers, ornamental towers or spires, communications, radio and television towers or necessary mechanical appurtenances may be erected, provided that, with the exception of a church spire or tower of a public building, such shall not exceed the height regulations of the applicable zoning district by more than 25%. No tower shall be used as a place of habitation or for tenant purposes. No sign, nameplate, display or advertising device of any kind whatsoever shall be inscribed upon or attached to any chimney, tower, tank or other structure which extends above the height limitations.
- (2).
Schools, public buildings or institutions may be erected to a height not exceeding 80 feet in any district in which they are permitted, provided that minimum front and rear yards are increased in width one foot for each foot of height that the building exceeds the height regulations of the district in which it is located.

§ 179-16 Yard regulations.

- A.
General. Every part of a required yard must be open to the sky, unobstructed except for the following:
- (1).
Accessory buildings in a rear or side yard as permitted by this chapter.
- (2).
The ordinary projection of open porches, balconies, steps, sills, belt courses, cornices and for ornamental features, provided that such projection does not exceed six inches.
- (3).
Open or lattice fire escapes required by law, projecting into a yard not more than five feet, provided that such do not overhang a property boundary or the public right-of-way.
- B.
Side yards.
- (1).
Side yard width may be varied. Where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular, the minimum side yard may be varied. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such side yard shall not be narrower at any one point than 1/2 the otherwise required minimum width.
- (2).
Width of one side yard may be reduced. Where specifically authorized by the Zoning Board of Appeals, the width of one side yard may be reduced to a width of not less than three feet, provided that the sum of the width of the two side yards is not less than the required minimum for both side yards, and further provided that the distance between the proposed structure and

any structure, existing or proposed, on an adjacent lot is not less than the required minimum sum of the widths of the two side yards. Such reduction may be authorized only when the Zoning Board of Appeals finds it to be warranted by the location of existing buildings or conducive to the desirable development of two or more lots.

(3).

Side yard of corner lot. The side yard of any corner existing lot of record at the time of the adoption of this chapter shall have a width equal to 10 feet or not less than 1/2 the required minimum front yard setback of any adjoining lot fronting on the side street, whichever shall be greater. Any corner lot delineated by subdivision after the adoption of this chapter shall have a side yard equal in width to the minimum front yard setback of any adjoining lot fronting on the side street.

C.

Front yard exception. When a vacant lot is situated between two improved lots, each having a principal building within 25 feet of any side lot line of such unimproved lot, the front yard may be reduced to a depth equal to the greater of the depths of the front yards of the two adjoining improved lots, but shall not be less than 10 feet. However, where such lot may front on a right-of-way proposed to be widened according to the Official Map of the City, the front yard shall be as required for the zoning district in which the lot is located and shall be measured from the proposed future right-of-way.

D.

Transition yard requirement.

(1).

Where a residential district abuts a nonresidential district on a street line, there shall be provided in the nonresidential district, for a distance of 50 feet from the district boundary line, a front yard at least equal in depth to that required in the residential district.

(2).

Where the side or rear yard in a residential district abuts a side or rear yard in a nonresidential district, there shall be provided, along such abutting line or lines, a side yard at least equal in width or rear yard at least equal in depth to that required in the residential district. In no case, however, shall the abutting side yard be less than 10 feet nor the abutting rear yard be less than 20 feet.

§ 179-17 Accessory buildings and structures.

A.

There shall be not more than two accessory structures, other than a permitted sign, of which no more than one shall be a private garage, on any lot used for residential purposes. A building permit for accessory buildings may only be issued if the residence is occupied and has a valid certificate of occupancy or certificate of compliance. Design of and exterior materials on accessory structures should be the same as or similar to those used on the primary structure.

[Amended 8-18-2004 by L.L. No. 3-2004]

B.

Accessory structures in residential districts not attached to the principal structure may be erected in accordance with the following requirements:

(1).

An accessory building not exceeding 12 feet in height may occupy not more than 30% of a required rear yard.

(2).

No accessory structure shall be located within five feet of side and rear lot lines.

(3).

No accessory structure shall be located closer to the street than the front yard setback required for principal structure in the district in which such accessory structure may be located.

(4).

For corner lots, the setback from the side street shall be the same for accessory buildings as for principal buildings.

(5).

Accessory structures in accordance with the above criteria the footprints of which exceed 400 square feet or 50% of the size of the primary structure, whichever is less, must receive a special use permit from the Planning Commission.

[Amended 8-18-2004 by L.L. No. 3-2004]

C.

Accessory structures in residential districts attached to the principal structure shall comply in all respects with the yard requirements applicable to the principal structure.

D.

Accessory structures in nonresidential districts shall comply fully with the front and side yard requirements for the principal structure to which they are accessory and shall not be closer to any rear property line than 10 feet.

§ 179-18 Lot coverage.

Aggregate land coverage by principal and accessory buildings or structures on any lot shall be greater than is permitted in the Zoning District where such principal and accessory buildings are located.

§ 179-19 Open space.

Minimum open space, as defined in Article II of this chapter, on any lot shall not be less than is permitted in the zoning district where such use is located.

ARTICLE V Supplementary Regulations (§ 179-20 — § 179-33.1)

§ 179-20 Applicability.

The following supplementary regulations are applicable to all zoning districts within the City of Rensselaer unless otherwise provided herein.

§ 179-21 General performance standards.

No use shall be permitted that does not conform to the following standards of use, occupancy and operation, in addition to all relevant provisions of other local, state and federal laws:

A.

Noise. No noise shall exceed an intensity, as measured from the boundaries of the lot where such use is situated, of the average intensity, occurrence and duration of the noise of street traffic at adjoining streets.

B.

Atmospheric effluence. No objectionable dust, dirt, smoke, odor or noxious gases shall be disseminated beyond the boundaries of the lot where such use is located.

C.

Glare and heat. No glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.

D.

Industrial wastes. No solid or liquid wastes shall be discharged into any public sewer, private sewage disposal system, stream or on or into ground, except in strict accordance with the standards approved by the Rensselaer County Department of Health or other duly empowered agency.

E.

Radioactivity or electromagnetic disturbance. No activities shall be permitted which emit dangerous radioactivity beyond the building in which such activity is located or which emit electrical disturbances adversely affecting the operation of any equipment other than that of the creator of such disturbance.

F.

Fire and explosion hazards. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire-suppression equipment and devices standard in the industry. All burning of waste materials in open fires is prohibited.

G.

Landscaping. All open portions of any developed lot shall have adequate grading and drainage and shall be continuously maintained in a dust-free condition by suitable landscaping with trees, shrubs, grass or other planted ground cover or by paving with asphalt, concrete, crushed rock or by other materials as may be approved by the Planning Commission. All required yard areas shall be planned and maintained in such a manner as to provide a park-like setting for all buildings.

§ 179-22 Off-street parking and loading.A.

Required off-street parking.

(1).

In connection with every use, there shall be provided, at the time any new building or structure is erected or a new or changed use of either land or structure is established, open or closed off-street parking spaces in accordance with the requirements set forth herein:

Use		Number of Spaces Required	(2).
Residential			For uses not specifically listed, the off-street parking requirement shall be the same as for the most similar use listed, as determined by the Director of Planning and Development or as otherwise provided in this chapter. If providing some or all of the required off-street parking on-site is impractical, required off-street parking may be provided as an accessory use not on the same lot. Such parking shall be fully provided within 500 feet of the principal use or structure and shall conform to the specific standards established within Article VI, § 179-36A, of this chapter. Such parking shall be subject to special use permit review and approval by the Planning Commission as provided within said Article VI.
	Single-family dwelling	2	
	Two-family dwelling	3	
	Multifamily dwelling	1.5 per dwelling unit	
	Boarding- or lodging house	1 per rentable bedroom	
	Home occupation	1 per 100 square feet	
Institutional			B. Required off-street loading. Off-street loading berths, open or enclosed, are required accessory to the following uses: (1). For a public library, museum or similar quasi-public institution or community center, hospital, nursing home, school or similar uses: one berth for the first 20,000 square feet of floor area and one additional berth for each additional 20,000 square feet or fraction thereof. (2). For buildings with retail sales and service establishments, professional, governmental or business or laboratory establishments: one berth for floor area of 7,500 to 25,000 square feet and one additional berth for each additional 25,000 square feet or fraction thereof. (3). For hotels and motels: one berth for each 25,000 square feet of floor area. (4). For manufacturing, wholesale and storage uses, and for dry-cleaning and laundry establishments: one berth for 5,000 to 10,000 square feet and one additional berth for each additional 20,000 square feet or fraction thereof so used.
	Church, school, membership club or similar place of public assembly	1 per 3 seats of seating capacity of the principal assembly room	
	Hospitals or nursing home	1 per 3 beds, plus 1 per employee in the largest shift	
Commercial			
	Hotel or motel	1.5 per guest room	
	Medical or dental office [Amended 5-20-1987 by L.L. No. 1-1987]	4 spaces per doctor or dentist	
	Professional or business office [Amended 5-20-1987 by L.L. No. 1-1987]	1 per 160 square feet of gross	
	Retail, service or trade shop or establishment [Amended 5-20-1987 by L.L. No. 1-1987]	1 per 160 square feet of gross floor area	
	Eating and drinking establishment [Amended 5-20-1987 by L.L. No. 1-1987]	1 per 100 square feet of gross floor area 1 per 80 square feet of gross floor area for drive-in establishments	
	Funeral home	1 per 50 square feet of public area	
	Recreational facility	1 per 200 square feet of use	§ 179-23 Signs. Signs may be erected and maintained only when in conformance with the provisions of this section and Article IX, § 179-54D, of this chapter. A. Purpose and scope. (1). The purpose of this section is to provide standards for the design, manufacture and installation of sign in the City of Rensselaer and to promote the public health, welfare and safety of the community by regulating existing and proposed outdoor signs. It is intended to reduce distractions, obstructions and hazards caused by indiscriminate placement and use of signs or by signs overhanging or projecting over public rights-of-way and other adverse construction. Further, it is the intent of this section to promote economic and community development by protecting property values, create a more attractive business environment and enhance and protect the physical appearance of the City and preserve and protect those designated historic areas and generally establish a more liveable and pleasant community.
	Shopping center [Amended 5-20-1987 by L.L. No. 1-1987]	1 per 160 square feet of gross floor area	
	Motor vehicle sales establishment	1 per 500 square feet of use	
	Gas station, motor vehicle repair shop, car wash	3 per garage bay plus 1 per employee	
	Theater, auditorium, sports area or similar place of public assembly	1 per 3 seats or seating capacity	
Industrial			
	All uses	1 per employee or combination of 2 largest shifts	
Professional Business District No. 1 and Professional Business District No. 2 [Added 6-3-1998 by L.L. No. 10-1998]			
	General office building	1 per 200 square feet of gross floor area	
	Corporate headquarters	1 per 200 square feet of gross floor area	
	Single-tenant office	1 per 200 square feet of gross floor area	
	Medical/dental office	1 per 150 square feet of gross floor area	§ 179-23 Signs. Signs may be erected and maintained only when in conformance with the provisions of this section and Article IX, § 179-54D, of this chapter. A. Purpose and scope. (1). The purpose of this section is to provide standards for the design, manufacture and installation of sign in the City of Rensselaer and to promote the public health, welfare and safety of the community by regulating existing and proposed outdoor signs. It is intended to reduce distractions, obstructions and hazards caused by indiscriminate placement and use of signs or by signs overhanging or projecting over public rights-of-way and other adverse construction. Further, it is the intent of this section to promote economic and community development by protecting property values, create a more attractive business environment and enhance and protect the physical appearance of the City and preserve and protect those designated historic areas and generally establish a more liveable and pleasant community.
	Government office	1 per 200 square feet of gross floor area	
	United States Post Office	1 per 200 square feet of gross floor area	
	Government office complex	1 per 250 square feet of gross floor area	
	Office park	1 per 250 square feet of gross floor area	
	Research and development center	1 per 300 square feet of gross floor area	
	Business park	1 per 300 square feet of gross floor area	
PDMR-4 Planned Development Multi-Residence 4 District [Added 2-16-2000 by L.L. No. 1-2000]		1.5 per unit (including garage units)	

placement and use of signs or by signs overhanging or projecting over public rights-of-way and other adverse construction. Further, it is the intent of this section to promote economic and community development by protecting property values, create a more attractive business environment and enhance and protect the physical appearance of the City and preserve and protect those designated historic areas and generally establish a more liveable and pleasant community.

(2).

This section shall control the design, installation, alteration, operation, maintenance and removal of all signs, existing and proposed, within the City of Rensselaer.

(3).

It is intended to promote aesthetically attractive signs which present clearly the intended communication that is compatible with its surroundings. The character and quality of a community are affected by the location, size, construction and graphics of its signs. Thus, such signs should convey their messages in a distinctive manner that enhances their environs.

B.

General standards. The provisions contained in this section shall apply to all signs and all use districts, regardless of designation:

(1).

Any sign or use of signs not specifically permitted by provision of this chapter is prohibited.

(2).

No sign shall be located in such a way as to interfere with driver vision of other traffic, traffic signs or traffic signals.

(3).

Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

(4).

No projecting sign shall be erected or maintained from the front or face of a building a distance of more than three feet, nor shall any sign project into or over a public right-of-way.

(5).

No sign shall be higher than the height limit in the district where such sign is located, nor shall any sign be placed on the roof of any building.

(6).

No portable or temporary sign shall be placed on the front of any building or premises, except as otherwise provided herein.

(7).

No sign shall be freestanding, except that:

(a).

A maximum of one freestanding sign shall be permitted per lot in the Columbia Street Overlay District, but where a business occupies more than one lot, only one freestanding sign shall be permitted for such business. Such sign shall be located not less than 10 feet from the curb or edge of the street, nor shall its total height exceed 30 feet.

(b).

One freestanding sign shall be permitted for each planned shopping center, as defined in this chapter, and for each major commercial or industrial use in excess of five acres of land area.

(8).

No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices. Included are signs which are mechanically animated, such as moving, rotating or revolving signs. Said devices, as well as strings of lights, shall not be used for the purposes of advertising or attracting attention when not part of a sign.

(9).

All signs shall be constructed of wood, metal or other durable material approved by the Building and Zoning Administrator.

(10).

Sign maintenance.

(a).

The owner of a sign and the owner of the premises on which each sign is located shall be jointly and severally liable to maintain such sign and supporting structure, including its illumination sources, in neat and orderly condition and good working order at all times, and to prevent the development of any corrosion, rotting or other deterioration in the physical appearance or safety of such sign or supporting structure.

(11).

Unsafe signs. Unsightly, damaged, deteriorated signs or signs in danger of falling shall be put in order or removed upon written notice from the Building and Zoning Administrator.

(12).

Unsafe temporary signs. Unsightly, damaged, deteriorated signs or other temporary signs in danger of falling shall be removed upon written notice from the Building and Zoning Administrator.

(b).

Such action shall not prejudice any existing noncomplying status of such sign.

(11).

No sign shall advertise a product or a service not principally available on the premises where such sign is located.

(12).

Not more than two signs, as defined herein, shall be permitted on any premises.

(13).

Any window, door, stairway or other opening intended for ingress or egress or for needed ventilation or light.

(14).

No sign shall be attached to any tree, fence or utility pole.

C.

Signs in residential districts. The following nonilluminated, accessory signs are permitted in all residential districts and may be erected without issuance of a permit or payment of a fee, except that in the Historic Residential District, all such signs identified in Subsections C(2), (4), (5), (6) and (7) shall be subject to review and approval by the Planning Commission:

(1).

Nameplates and identification signs indicating the name and address of the occupant, provided that they shall not be larger than two square feet in area. Only one such sign per dwelling unit shall be permitted, except in the case of corner lots where two signs, one facing each street, shall be permitted for each dwelling unit.

(2).

For multiple-family dwellings and for buildings other than dwellings, a single identification sign not exceeding four square feet in area and indicating only the name and address of the building and the name of the management may be displayed, provided that on a corner lot two such signs, one facing each street, shall be permitted.

(3).

Signs advertising the sale or rental of the premises upon which they are erected by the owner or broker or any other person interested in the sale or rental of such premises, and signs bearing the word "sold" or "rented" with the name of the persons effecting the sale or rental may be erected or maintained, provided that.

(a).

The size of any such sign is not in excess of six square feet.

(b).

Not more than one sign is placed upon any property unless such property fronts upon more than one street in which event one such sign may be erected on each frontage.

(c).

Such sign or signs shall be removed within a fifteen-day period after the premises has been sold or rented.

(4).

Institutional signs of schools, colleges, churches, hospitals or other similar public or semipublic nature may be erected and maintained, provided that:

(a).

The size of any such sign is not in excess of six square feet.

(b).

Not more than one such sign is placed on a property, unless such property fronts upon more than one street, in which event one such sign may be erected on each frontage.

(5).

Signs designating entrances or exits to or from a parking lot and limited to one sign for each such exit or entrance and to a maximum size of two square feet each shall be permitted. One sign per parking lot designating the conditions of use or identity of such parking lot and limited to a maximum size of nine square feet shall be permitted, provided that on a corner lot two such signs shall be permitted, one facing each street.

(6).

Development signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer or other persons interested in such sale or development, may be erected and maintained, provided that:

(a).

The size of any sign is not in excess of 20 square feet.

(b).

Not more than one such sign is placed upon any property, unless such property fronts upon more than one street, in which event one such sign may be erected on each frontage.

(c).

Any such sign shall be removed by the developer within 15 calendar days of the final sale.

(7).

Artisan's signs, such as those of mechanics, painters and other artisans, may be erected and maintained during the period such persons are performing the work on the premises on which such signs are erected, provided that:

(a).

The size thereof is not in excess of 12 square feet.

(b).

Such signs are removed promptly upon completion of the work.

D.

Signs in commercial and industrial districts. The following accessory signs are permitted in any commercial or industrial district (LB, CI, HC, CSt, LB2 or I) in accordance with the following regulations and upon issuance of a permit by the Building and Zoning Administrator:

(1).

The aggregate gross surface area of all signs on a lot shall be as specified in the following table:

District	Area
LB (Local Business) and LB2 (Local Business 2)	0.5 square foot per foot of lot frontage, not to exceed 30 square feet
CI (Commercial-Industrial)	1.0 square foot per foot of lot frontage, not to exceed 60 square feet
HC (Historic Commercial)	0.5 square foot per foot of lot frontage, not to exceed 30 square feet
I (Heavy Industrial)	1.0 square foot per foot of lot frontage, not to exceed 100 square feet

(2).

And further, any freestanding sign on a lot in the Columbia Street Overlay District shall be as specified: 2.0 square feet per foot of lot frontage, not to exceed 100 square feet of gross surface area (50 square feet per side).

E.

Temporary signs. All signs of a temporary nature, such as political

posters, banners and signs of a similar nature, including school, church or civic functions, shall be permitted for a period not exceeding 30 calendar days, without permit or fee, provided that such signs are not attached to fences, trees, utility poles, regulatory signs or the like and further provided that such signs are not placed in a position that will obstruct or impair vision of traffic in any manner. Such signs may not represent a commercial product, activity or enterprise and shall not exceed 30 square feet per side.

F.

Directional signs. Businesses and public destinations shall be allowed not more than two off-premise directional signs in a district zoned for commercial or industrial use as a special permit use subject to the provisions of Article VI of this chapter and the following requirements:

(1).

In locations with more than one directional sign, all such signs shall be affixed to a common standard and shall be graphically coordinated and arranged so as to present a neat and orderly appearance.

(2).

No directional sign shall exceed six square feet in area. In areas with more than one directional sign, the aggregate area shall not exceed 30 square feet.

§ 179-24

Fences and walls.

A.

Fences and walls shall not exceed six feet in height when erected in side or rear yards nor four feet in height when erected within 25 feet of the street or highway pavement.

B.

All such fences and walls shall conform additionally to the requirements of Article IV, § 179-14C, as it pertains to corner lots.

C.

All such fences and walls shall be measured from the ground level at the base of the fence or wall, except that if there is a retaining wall, the height shall be measured from the average of the ground levels at each end of said retaining wall.

§ 179-25

Excavation as part of site preparation.

Nothing contained herein shall prohibit the excavation of sand, gravel, shale, topsoil or similar material from a lot preparatory to the construction for which a building permit has been issued, or to move such material from one part of a premises to another part of the same premises, when such excavation and removal is clearly incidental to the building construction and/or necessary for improving said property for a use permitted in the district in which it is located. Provision shall be made to restore an effective cover crop to any area of land from which the topsoil has been removed or covered with fill within the second growing season following the start of such operation.

§ 179-26

Development near streams and wetlands.

In order to preserve the open character along major streams for environmental and ecological reasons, all development proposed within 50 feet of the center line of the Quackenberry or Mill Creek, within 100 feet of the high-water mark of the Hudson River, or within 100 feet of the boundary of a freshwater wetland as mapped by the New York State Department of Environmental Conservation, shall be subject to special use permit review and approval as provided by Article VI of this chapter.

§ 179-27

Development within Flood-Fringe Overlay District.

All development within the Flood-Fringe Overlay District, as mapped by the Federal Insurance Administration within the Department of Housing and Urban Development, shall be subject to special use permit review and approval as provided by Article VI of this chapter.

§ 179-28

Development within Historic Residential and Historic Commercial Districts.

A.

Before any improvements are made on any public or private property or public place within the Historic Residential and Historic Commercial Districts, the projects must be first reviewed and approved and a certificate of appropriateness issued by the Planning Commission. No building permits shall be issued nor shall any encroachment on public places be permitted until such

approval is granted.

B.

Within the Historic Residential and Historic Commercial Districts, the following shall be submitted to the Planning Commission for review and approval:

(1).

Plans for new buildings, structures or signs.

(2).

Plans for the renovation, rehabilitation or reconstruction of existing buildings, structures or signs.

(3).

Site and planting plans for any playground, park, parking lot or parking structure.

(4).

Sketches, models or drawings of any sculpture, statuary, fountains, monuments or historical markers.

(5).

Decorative or memorial plaques.

(6).

Signs of any kind on public property.

(7).

Illustrations or examples of street furniture, such as lampposts, street signs, benches, trash receptacles, kiosks and other similar items.

C.

In reviewing the plans, the Planning Commission shall give consideration to:

[Amended 8-18-2004 by L.L. No. 4-2004]

(1).

General guidelines:

(a).

The general design and character and the scale of the proposed alteration or new construction should be compatible with the building and surrounding historic district.

(b).

The texture, materials, and color should relate to similar features of other structures in the surrounding district.

(c).

Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building structure or site and its environment.

(d).

The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided whenever possible.

(e).

Grounds for considering a proposed design inappropriate would include arresting and spectacular effects, violent contrasts of materials or colors, or intense colors, or multiplicity or incongruity of details resulting in a disturbing appearance.

(2).

Materials:

(a).

Distinguishing architectural features (including, but not limited to, doors, windows, siding, trim, cornices, roofs, stoops, fences, and railings) shall be repaired rather than replaced whenever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs.

(b).

The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting, pressure grit washing, and other cleaning methods that will damage the historic building materials shall not be undertaken.

(c).

Residents living in the Historic District of Rensselaer, New York, be allowed to keep aluminum, steel and/or vinyl siding. Should the need to replace or repair said siding occur, they may replace and repair with aluminum, steel or vinyl siding.

[Added 12-7-2005 by L.L. No. 4-2005]

(3).

Fences:

(a).

Chain link fences located on street frontage will not be considered appropriate for most areas within historic districts.

(4).

Signs:

(a).

In general, sign sizes should be minimal to avoid obscuring architectural details and to avoid clutter on the street.

(b).

Signs for first-floor commercial space in historic districts generally should be placed no higher than the bottom of the second-story windows.

(c).

Backlit plastic signs or awnings are discouraged by the Commission.

D.

The Planning Commission shall pass only on exterior features of a structure and shall not consider interior arrangements, nor shall it disapprove applications except in regard to considerations as set forth in the previous subsection or as otherwise provided by this chapter. The Planning Commission may establish, subject to regulations it may promulgate, an advisory committee to assist in the determination of the appropriateness of the development proposed to the HR or HC District.

§ 179-29 Swimming pools.

Any swimming pool, as defined within Article II of this chapter, shall be subject to the following requirements:

A.

If located within 25 feet of any side or rear lot line, such pool shall be screened by natural vegetation from the view of adjacent properties.

B.

Such pool shall be enclosed on all sides by a security fence not less than four feet nor more than six feet in height and shall be provided with a locking gate to prevent accidental entry or unauthorized use of the pool.

§ 179-30 Home occupations.

In any residential district, permitted home occupations shall conform to the following requirements:

A.

The profession or other occupation shall be carried on wholly within the dwelling or customary accessory buildings.

B.

The activity shall not occupy more than 30% of the gross floor area of the dwelling or its equivalent, if located elsewhere in the dwelling or in a customary accessory structure.

C.

There shall be no exterior display or exterior signs except as permitted for residential districts, no exterior storage of materials or equipment and no alteration or variation from the residential character of the dwelling.

D.

Not more than one person other than members of the family residing in such dwelling shall be employed at the same time in connection with such home occupation.

E.

Sufficient off-street parking shall be provided as required within Article V, § 179-22, of this chapter.

§ 179-31 Mobile dwellings; construction trailers.

A.

No mobile dwelling designed for year-round occupancy and for human habitation shall be stored or parked at any location in the City, except that such mobile dwelling may be stored or parked inside a public or private garage, salesroom and manufacturing plant or parked on an improved lot for sales purposes not less than 30 feet from any lot line.

B.

Notwithstanding the above, construction trailers may be permitted on construction sites upon approval of the Building and Zoning Administrator. Such construction trailers may not be located until a building permit has been issued and shall be removed prior to the issuance of a certificate of occupancy.

§ 179-32 Storage on residential lots.

Not more than one commercial vehicle in excess of 20 feet in length nor more than one camping trailer or boat may be stored outdoors on a lot in a residential district. All such outdoor storage shall occur inconspicuously on that portion of the lot behind the front setback of the dwelling located thereon and shall be not less than three feet from the nearest lot line.

§ 179-33 Required screening.

Any enclosed or unenclosed commercial or industrial use permitted by this chapter shall be provided with a fence, screen and/or landscaping sufficient to obscure such use from view from abutting properties in residential districts or from public rights-of-way.

A.

Any use which is not conducted within a completely enclosed building, including but not limited to junkyards, storage yards, lumber and building material yards and parking lots, and which use is in, abut or is adjacent to a residential district, or fronts a public right-of-way, shall be obscured from view from such residential districts and public rights-of-way in an effective manner.

B.

Plans and site design for the installation of required fences or landscaping shall be reviewed by the Planning Commission prior to issuance of a building permit or certificate of occupancy for such use.

C.

Any required fencing or landscaping installed in accordance with this section shall be maintained in good order to achieve the objectives of this section. Failure to maintain fencing and to replace dead or diseased landscaping shall be considered a violation of this chapter.

§ 179-33.1 Sexually oriented businesses.

[Added 9-19-2001]

A.

It is the purpose of this section to regulate sexually oriented businesses, to promote the health, safety, morals and general welfare of the citizens of the City of Rensselaer and to establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses within the City of Rensselaer. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the Constitution of the United States or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect for this section to condone or legitimize the distribution of obscene materials.

B.

Definitions. As used in this section, the following terms shall have the meanings indicated:

ADULT ARCADE

Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE

A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(1)

Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, videocassettes or video reproductions, slides or other visual representations, which depict or describe specified anatomical areas.

(2)

Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be defined as an "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration of the specified materials which depict or describe specified sexual activities or specified anatomical areas.

ADULT CABARET

A nightclub, bar, restaurant or similar commercial establishment which regularly features:

(1)

Persons who appear in a state of nudity.

(2)

Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(3)

Films, motion pictures, videocassettes, slide or other photographic reproductions, which are characterized by the depiction or description of, specified anatomical areas or specified sexual activities.

ADULT MOTEL

A hotel, motel or similar commercial establishment which:

(1)

Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and has a sign visible from the public right-of-way which advertises the availability of this adult-type of photographic reproductions;

(2)

Offers sleeping room for rent for a period of time that is less than 10 hours; or

(3)

Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

ADULT MOTION-PICTURE THEATER

A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER

A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ADULT USES

Adult arcades, adult bookstores, adult cabarets, adult motels, adult motion-picture theaters, adult theaters, adult video stores, escort agencies, nude model studios and sexual encounter centers.

ADULT VIDEO STORE

See "adult bookstore."

ESCORT

A person who, for consideration, agrees or offers to act as a companion, guide or date for another person or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY

A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT

Any of the following:

(1)

The opening or commencements of any sexually oriented business as a new business.

(2)

The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.

(3)

The additions of any sexually oriented business to any other existing sexually oriented business.

(4)

The relocation of any sexually oriented business.

NUDE MODEL STUDIO

Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.

NUDITY

The appearance of a human bare buttocks, anus, genitals or full female breast.

PERSON

An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMINUDE

A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portion of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER

A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(1)

Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2)

Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.

SEXUALLY ORIENTED BUSINESS

An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

SPECIFIED ANATOMICAL AREAS

The male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

SPECIFIED SEXUAL ACTIVITIES

Any of the following:

(1)

The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.

(2)

Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.

(3)

Masturbation, actual or simulated.

(4)

Excretory functions as part of or in connection with any of the activities set forth in Subsections A, B and C above.

STATE OF NUDITY

See "nudity."

SUBSTANTIAL CONNECTION

(1)

In a sole proprietorship, an individual who owns, operates, controls or conducts, directly or indirectly, any premises, building or location upon which any adult use takes place.

(2)

In a partnership, limited or general, an individual who shares in any profits or losses of the business or who shares in the ownership of any of the assets of the partnership business.

(3)

In a corporation, an individual who is an officer, director or a holder, either directly, indirectly or beneficially, of more than 20% of any class of stock.

(4)

Any person who furnished more than 20% of the capital financing or assets of such business, whether in cash, goods, or services.

SUBSTANTIAL ENLARGEMENT

The increase in floor areas occupied by a sexually oriented business by more than 25% of the floor areas as it exists on the effective date of the section.

TRANSFER OF OWNERSHIP OR CONTROL

Includes any of the following:

(1)

The sale, lease or sublease of a sexually oriented business.

(2)

The transfer of securities, which constitutes a controlling interest in a sexually oriented business, whether by sale, exchange or similar means.

(3)

The establishment of a trust, gift or other similar legal device which transfers the ownership or control of a sexually oriented business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

C.

Permitted locations.

(1)

Adult uses shall be a permitted use in a Heavy Industrial District (I) only, provided that:

(a)

An adult use may not be operated within 500 feet of:

[1]

A church, synagogue or regular place of worship.

[2]

A public or private elementary or secondary school or licensed child day-care center.

[3]

A public park.

[4]

Nursery school.

(b)

An adult use may not be operated within 250 feet of a residence.

(c)

An adult use may not be operated within 500 feet of another adult use or on the same lot or parcel of land.

(d)

An adult use may not be operated in the same building, structure or portion thereof containing another adult use.

(2)

For the purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult use is conducted to the nearest property line of the premises of a church or public or private elementary or secondary school or licensed child day-care center or to the nearest boundary of an affected public park or residential lot.

(3)

All adult uses shall be conducted in an enclosed building. Regardless of location or distance, no one who is passing by an enclosed building having a use governed by this section shall be able to visually see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or shows said area or activity. This requirement shall apply to any display, decoration, sign, window or other opening.

(4)

No description in words, phrases, characters, or other form of any specified anatomical area or any specified sexual activity shall be permitted on any display, decoration, sign, window, or other opening.

D.

Compliance required; inspections.

(1)

A person may operate an adult use business only within the Heavy Industrial District (I) in the City of Rensselaer in accordance with the provisions of this section and other applicable laws.

(2)

Prior to the commencement of any adult use business or upon any transfer of ownership or control, the premises must be inspected and found to be in compliance with all laws, ordinances, rules and regulations applicable to the use and occupancy for any adult use business and compliance with this section.

(3)

All code enforcement officials shall complete their certification that the premises is in compliance or not in compliance within 20 days of the inspection of the premises by such officials.

(4)

Any owner and/or operator, employee of the owner and/or operator or agent of the owner and/or operator shall permit any representative of the City Police Department, the Rensselaer County Sheriff's Office, the New York State Police, County or State Health Department, City Code Enforcement officials, or other City, county or state departments or agencies that have permitting authority regarding the use and/or premises to inspect the premises of an adult use business for the purpose of ensuring compliance with this section at any time it is occupied or open for business.

E.

Nonconforming adult users.

(1)

Any adult use business lawfully operating on the effective date of this section that is in violation of the location or structural configuration requirements of this section shall be deemed a nonconforming use. The continuation of the same use of substantially the same character and intensity shall be allowed. The nonconforming use will be permitted to continue for a period not to exceed two years, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 500 feet of one another and otherwise in a permissible location, the adult use business, which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is nonconforming.

(2)

An adult use business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the operation of the adult use business, of a church, public or private elementary or secondary school, public park, within 500 feet of the adult use business, or a residence within 250 feet of the adult use business.

F.

Registration.

(1)

No person, firm, corporation or other entity shall lease, rent, maintain, operate, use or allow to be operated or used any business or establishment, any part thereof which contains an adult use, without first complying with the provisions of this section as set forth below.

(2)

In addition to any and all other necessary licenses and permits, no form of adult use shall be allowed to operate nor allowed to continue to operate, until a certificate of registration is filed with the City Clerk containing:

(a)

The address of the premises.

(b).

The name and address of the owner(s) of the premises and the name and address of the beneficial owner(s) if the property is in a land trust.

(c).

The name of the business or the establishment subject to the provisions of this section.

(d).

The name, business and home address, business or home phone numbers of all owners of the business or establishment subject to the provisions of this section.

(e).

The names, business and home addresses, business or home phone numbers of all those persons having a substantial connection with the business or establishment subject to the provisions of this section.

(f).

The date of the initiation of the adult use.

(g).

The exact nature of the adult use.

(h).

If the premises or the building in which the business containing the adult use is located is leased, a copy of the lease.

(3).

If there occurs any change in the information required for the certificate of registration, the City Clerk shall be notified of such change, and a new or amended certificate filed within 30 days of such change.

(4).

The processing fee for each certificate of registration or amendment thereto shall be \$100. Such certificate of registration shall be renewed annually and the processing fee provided in this section shall be an annual charge.

(5).

No certificate of registration issued under the provisions of this section shall be transferable to any person other than the registrant, nor shall a certificate of registration be transferable for use at any premises, building or location other than that stated in the certificate of registration.

(6).

The owner, manager or agent of any adult use shall cause a copy of the certificate of registration issued under the provisions of this section to be prominently displayed on the premises, building or location for which it is issued.

(7).

Any knowingly false statement, or any statement which the registrant or applicant should reasonably have know to be false, which is provided in the certificate of registration or any document or information supplied therewith shall be grounds for rejection, suspension or revocation of the certificate of registration.

(8).

It shall be deemed a violation of this section for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate an adult use without having in force a certificate or registration complying with this section.

G.

Violations. It shall be deemed a violation if the owner and/or operator, an employee of the owner and/or operator or an agent of the owner and/or operator has:

(1).

Violated or is not in compliance with any subsection of this section.

(2).

Refused to allow an inspection of the adult use business premises as authorized by this section.

(3).

Had gambling occur on the adult use business premises.

(4).

Had the possession, use or sale of a controlled substance occur on the premises.

(5).

Had prostitution occur on the premises.

(6).

Had any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct occur on the premises.

(7).

Had any physical contact between a person in a state of nudity (employee, patron or other person), and any other person or person(s) (employee, patron or other person), whether such other person or person(s) are in a state of nudity, seminude, or clothed on the premises of any adult arcade, adult bookstore or video store, adult cabaret, adult motion-picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

ARTICLE VI Special Use Permits (§ 179-34 — § 179-36).

§ 179-34 General provisions.

A.

Special use permits, as enumerated in the Zoning Schedule of Use Regulations included at the end of this chapter, shall be issued by the Planning Commission in accordance with the specific requirements of this article. Such special use permit shall be conditioned upon a separate approval by the Planning Commission, if required, under the site plan review and approval procedure detailed in Article VII of this chapter.

B.

The following general standards shall apply to all special permit uses:

(1).

The use shall be so designed, located and operated to ensure protection of the public health, safety and welfare.

(2).

The use shall not cause substantial injury to the economic value of other property in the neighborhood where it is to be located.

(3).

The use shall be compatible with other adjoining development and the character of the zoning district where it is to be located.

(4).

Adequate landscaping and screening shall be fully provided as required by this chapter.

(5).

Adequate off-street parking and loading shall be provided and ingress and egress shall be so designed as to cause minimum interference with traffic on abutting streets.

(6).

The use shall conform with all applicable regulations governing the zoning district where it is to be located.

§ 179-35 Procedure.

The Planning Commission shall act in strict accordance with the procedure specified by law and by this chapter in its consideration of special permit uses.

A.
Application and fee; stormwater pollution prevention plan.

(1).
Any application for a special use permit shall be in writing, on a form prescribed by the Planning Commission, and shall be accompanied by a fee of \$25.

(2).
Stormwater pollution prevention plan. A stormwater pollution prevention plan (SWPPP) consistent with Local Law No. 4-2007 shall be required for special use permit approval.

Editor's Note: See Ch. [145](#), Stormwater Management, Art. [I](#), Erosion and Sediment Control, and Art. XV, Stormwater Control, in this Ch. [179](#), Zoning. The SWPPP shall meet the performance, design criteria and standards set forth in Local Law No. 4-2007. The approved special use permit shall be consistent with the provisions of Local Law No. 4-2007.
[Added 12-19-2007 by L.L. No. 4-2007]

B.
Public notice and hearing. The Planning Commission shall fix a time and place for a public hearing on any such application for a special use permit and shall provide public notice by publishing notice, at least five days prior to the date thereof, in the official newspaper of the City.

C.
Required referral. A full statement on any application for a special use permit that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law shall also be referred to the Rensselaer County Bureau of Planning for its review. No action shall be taken by the Planning Commission on such application until an advisory recommendation has been received from the Bureau of Planning or 30 days have elapsed since the Bureau received such full statement.

D.
Decisions. Every decision of the Planning Commission shall be recorded in accordance with standard forms adopted by the Commission. Every decision shall be by resolution of the Commission, by majority vote thereof, with each such decision being filed in the office of the City Clerk within 10 calendar days thereof.

E.
Attachment or conditions. The Planning Commission may attach reasonable conditions and safeguards to the issuance of any special use permit in order to ensure that the result of its action shall be as nearly as possible in accordance with the spirit and intent of this chapter.

F.
Expiration of approval. Unless construction or use is commenced and diligently pursued within six months of the date of issuance of the special use permit, such special use permit shall become null and void.

G.
Reimbursement costs.

[Added 3-5-2003 by L.L. No. 5-2003]

(1).
Reasonable costs incurred by the Planning Commission to retain private consultants, including, but not limited to, attorneys and engineers, to assist with the review and evaluation of the proposed special use permit, shall be charged to the applicant. The costs shall be reasonable in amount and limited to activities necessary to the accomplishment of the Planning Commission's regulatory and governmental functions. Such reimbursement costs shall be in addition to the fee required by Subsection [A](#) of this section.

(2).
This provision shall not apply to applications for minor projects. For purposes of this provision, minor projects shall include all projects classified as "Type II" actions pursuant to 6 NYCRR 617.5, and such other and similar small projects as the Planning Commission, in its discretion, may exempt from this provision.

(3).
The Planning Commission shall make a reasonable estimate of the amount of the private consultant expenses it expects to incur during the course of its review and evaluation. In making this estimate, the Planning Commission shall be guided by the following:

(a).
Its previous experience of costs associated with site plan review of similar projects;

(b).
In situations where the Planning Commission is the lead agency under the State Environmental Quality Review Act (SEQRA), the procedures and standards of 6 NYCRR 617.13 and the provisions of the City of Rensselaer Building Permit Fee Schedule regarding commercial projects (nonresidential structures and residential projects with four or more units);

(c).
Where the project involves property that is or may be heavily contaminated by past industrial or commercial use, anticipated costs of consultants and/or City employees for testing, analysis, site monitoring and other actions reasonably needed to protect public health and safety may be assessed; and

(d).
Discussions with the applicant's legal and technical representatives, appropriate City officials and the private consultants as to the likely course of the application review process and the issues likely to be encountered during that process.

(4).
Alternatively, the applicant may elect to make an initial deposit in the amount of \$5,000 plus \$50 per required parking space.

(5).
The amount determined by the Planning Commission under Subsection [G\(3\)](#) above, or the applicant under Subsection [G\(4\)](#) above, shall be deposited by the applicant in escrow with the City Treasurer prior to the Commission's commencing any review of the application; if the amount so deposited is exhausted or diminished during the review process to the point that the Planning Commission determines that the remaining amount will not be sufficient to enable the Commission to complete its review of the application, the Commission may notify the applicant of the additional amount that must be deposited with the City Treasurer. This additional amount shall also be established in a manner consistent with the provisions of Subsection [G\(3\)](#) above, if the applicant fails to replenish the escrow account or there are unpaid amounts for which the applicant is responsible pursuant to this subsection, the Planning Commission, in its discretion, may:

(a).
Cease review of the application until such amounts are paid; or

(b).
Deny the application.

(6).
In no event, however, shall any special use permit application be granted until all such sums reasonably assessed to the applicant have been paid in full. At the conclusion of the application review process, all funds not expended by the Planning Commission shall be returned to the applicant.

§ 179-36 Additional requirements for certain special permit uses.

The following additional requirements shall govern the particular special permit uses cited in this section:

A.
Off-street parking lots.

(1).
All off-street parking lots shall be maintained and operated on a no-charge basis to the user public if spaces are provided to meet the minimum off-street parking requirements set forth in Article [V](#), § [179-22](#), of this chapter.

(2).
All off-street parking lots shall be paved with a properly drained, dustless, all-weather surface.

(3).
No space in an off-street parking lot shall be located within five feet of a rear or side property line or 10 feet of the street line. In any residential district, no space in an off-street parking lot shall encroach on any required front yard.

(4).

Visual screening of any off-street parking lot shall be provided from adjoining residential properties through use of appropriate fencing and natural hedge-like planting materials.

(5).

Unobstructed access to and from a public street shall be provided. Such access may not be located nearer than 30 feet to the intersection of any two street lot lines. Such access shall consist of at least one ten-foot lane for parking areas with less than 12 spaces and at least two ten-foot lanes for paving areas with 12 or more spaces. All access to off-street parking lots shall be limited to such well-defined locations, and in no case shall there be permitted unrestricted access along the length of the street or alley upon which the parking area abuts.

(6).

If a nonaccessory parking lot, as provided for in Article V, § 179-22, the following additional standards shall apply:

(a).

Not less than 30% of the lot area shall be devoted to properly landscaped and maintained open space.

(b).

Spaces provided shall be in the same ownership as the use to which they are accessory or leased for not less than 20 years. Said owner or lessee shall maintain the required number of spaces, either throughout the existence of the use to which they are accessory or until such spaces are provided elsewhere, upon approval of the Planning Commission.

B.

Automobile service stations.

(1).

The minimum lot area shall be 12,500 square feet, and the minimum frontage shall be 100 feet.

(2).

No building shall be erected closer than 20 feet to any street or lot line.

(3).

Entrance and exit driveways shall have an unrestricted width of not less than 12 feet nor more than 24 feet, nor be located closer than 10 feet to any lot line or 20 feet to any street intersection.

(4).

No entrance or exit driveway or parking space shall be located so as to require the backing of any vehicle into the public right-of-way.

(5).

All vehicle lifts, dismantled automobiles, parts or supplies, goods, materials, refuse, garbage or other debris shall be located within a building enclosed on all sides.

(6).

All services or repair of motor vehicles shall be conducted in a building enclosed on all sides (not to be construed as meaning that the doors to any repair shop must be kept closed at all times).

(7).

Gasoline or other flammable fluids in bulk shall be stored fully underground, not closer than 10 feet to any street line or 35 feet to any other lot line.

(8).

No gasoline pumps shall be located closer than 25 feet to any street line.

(9).

There shall be at least two paved parking spaces for each service bay plus one additional space for each employee, with no parking area provided closer than 10 feet to any lot line.

(10).

The overnight, outdoor parking of vehicles shall be prohibited except when such vehicle is both properly registered and undergoing active repair.

(11).

No establishment shall be located within 200 feet of any school, church, hospital or other place of assembly designed for occupancy by more than 50 persons, said distance to be measured in a straight line between the nearest points of each of the lots or premises, regardless of the zoning district where either premises is located.

C.

Structures or uses in the flood-fringe areas. All uses within the Flood-Fringe (FF) Overlay District shall be reviewed for compliance with the following additional standards, as certified to by a registered architect or licensed professional engineer:

(1).

All structures shall be designed and anchored to prevent flotation, collapse or lateral movement due to flood-water-related forces.

(2).

All construction materials and utility equipment used shall be resistant to flood damage.

(3).

Construction practices and methods shall be employed which minimize potential flood damage.

(4).

All public utilities and facilities shall be located and constructed to minimize or eliminate potential flood damage.

(5).

Adequate drainage shall be provided to reduce exposure to flood hazards.

(6).

All water supply and sewage disposal systems shall be designed to minimize or eliminate floodwater infiltration or discharges into the floodwaters.

(7).

All new residential construction or substantial improvements to residential structures shall have the lowest floor, including basement, elevated to or above the water level of the one-hundred-year flood.

[Amended 4-19-1988 by L.L. No. 3-1988]

(8).

All new nonresidential construction or substantial improvements to such nonresidential structures shall have the lowest floor, including basement, elevated to or above the water level of the one-hundred-year flood or, as an alternative, be floodproofed up to that same water level, including attendant utility and sanitary facilities,

[Amended 4-19-1988 by L.L. No. 3-1988]

(9).

No use shall be permitted, including fill, dredging or excavation activity, unless the applicant has demonstrated that the proposed use, in combination with all other existing and anticipated uses, will not raise the water level of the one-hundred-year flood more than one foot at any point.

D.

Excavation, removal and filling of lands.

(1).

Mining and excavation, including the loading, hauling and/or processing of sand, gravel, soil, shale, topsoil and any aggregate material, shall be permitted, provided that:

(a).

All applicable provisions of the New York State Mined Land Reclamation Law

Editor's Note: See Environmental Conservation Law § 23-2701 et seq.
and other applicable state and federal regulations shall be fully complied with.

(b).

A time schedule for completion of either the entire operation or, if excavation is to occur in stages, of each stage of the operation, is submitted for approval.

(c).

An operations plan, including the number and types of trucks and other machinery to be used on and off the site, is submitted for approval.

(d).

A restoration and rehabilitation plan, showing both existing contours and proposed final contours after operations are completed, is submitted for approval.

(e).

A performance bond to assure rehabilitation of the site is posted in an amount satisfactory to the Planning Commission.

(f).

A buffered area of not less than 150 feet is established between the operation and the nearest property line.

(g).

In general, such special use permit shall be restricted to an area not to exceed five acres and to a time period not to exceed two years.

(2).

Filling of lands with mined or excavated material cited above, or with construction or other trash and debris, shall be permitted, provided that:

(a).

A time schedule, operations plan and restoration and rehabilitation plan, as cited above, are submitted for approval.

(b).

A performance bond to assure rehabilitation of the site is posted in an amount satisfactory to the Planning Commission.

(c).

A buffered area of not less than 75 feet is established between the operation and the nearest property line.

(d).

In general, such special use permit shall be restricted to an area not to exceed two acres and to a time period not to exceed one year.

(e).

All applicable provisions of Article 360 of the New York State Public Health Law and the applicable provisions of the New York State Freshwater Wetlands Law

Editor's Note: See Environmental Conservation Law § 24-0101 et seq.
and the National Flood Insurance Program are fully complied with.

(3).

All such applications for a special use permit shall be prepared by a licensed professional engineer and shall be accompanied by further documentation as may be required by the Planning Commission.

E.

Public buildings and utility services in residential districts. Such facilities shall be permitted in all residential districts, provided that:

(1).

All standards of this chapter and other applicable rules and regulations are fully complied with.

(2).

Such facility is necessary to serve the surrounding residential area where it is not possible to serve such area from a facility located in a Local Business, Commercial-Industrial or Heavy Industrial District.

(3).

Such facility shall not be located on a local residential street unless no other site is available and shall be so located to draw a minimum of traffic to and through such street.

(4).

The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.

(5).

Adequate fences, barriers and other safety devices shall be provided and the area shall be landscaped as determined appropriate by the Planning Commission.

ARTICLE VII Site Plan Review and Occupancy Change Review and Approval Procedure (§ 179-37 — § 179-47)

[Amended 3-5-2002 by L.L. No. 4-2003; 3-16-2005]

§ 179-37 General provisions.

A.

Prior to the issuance of a certificate of occupancy in any district, except for a one- or two-family dwelling and related accessory uses, the Building and Zoning Administrator shall require the preparation of a site plan. The Building and Zoning Administrator shall refer the site plan to the Planning Commission.

B.

If the certificate of occupancy involves a new business and there are no changes proposed to the site and the proposed use is allowed in the zone, the Building and Zoning Administrator may refer the application to the Planning Commission for its review and approval in accordance with the standards and procedures set forth in this article. But with approval of the Planning Director, the Building and Zoning Administrator may grant the certificate of occupancy to new businesses not proposing to make physical changes to the site without site plan review by the Planning Commission if it is determined that the new use is permitted in the zoning district and its presence will not result in an increase of traffic, noise, or other disturbances to neighboring properties or the citizens of the City of Rensselaer at large.

§ 179-38 Sketch plan.

A sketch plan conference between the Building and Zoning Administrator, the Director of Planning and Development and the applicant shall be held to review the basic site design concept and generally determine the information to be required on the preliminary site plan. At the sketch plan conference, the applicant should provide the data discussed below in addition to a statement or rough sketch describing what is proposed:

A.

An area map showing the parcel under consideration for site plan review and all properties, subdivisions, streets and easements within 200 feet of the boundaries thereof. Such area map shall be oriented to the nearest street intersection.

B.

A map of site topography at no more than five-foot contour intervals. If general site grades exceed 5% or portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay map and a topographic map, showing contour intervals of not more than two feet of elevation, should additionally be provided.

§ 179-39 Application for preliminary site plan approval.

A.

An application for preliminary site plan approval shall be made in writing to the Building and Zoning Administrator and shall be accompanied by information drawn from the following checklist, as determined necessary by the Director of Planning and Development at the sketch plan conference:

(1).

The title of the drawing, including the name and address of the applicant and the person responsible for the preparation of such drawing.

(2).

North arrow, scale and date.

[\(3\).](#)

The boundaries of the property plotted to scale.

[\(4\).](#)

Existing watercourses.

[\(5\).](#)

A grading and drainage plan, showing existing and proposed contours at an appropriate interval to be specified by the Director of Planning and Development.

[\(6\).](#)

The location, proposed use and height of all buildings.

[\(7\).](#)

The location, design and construction materials of all parking and truck loading areas, with access and egress drives thereto.

[\(8\).](#)

Provisions for pedestrian access.

[\(9\).](#)

The location of outdoor storage, if any.

[\(10\).](#)

The location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.

[\(11\).](#)

A description of the method of sewage disposal and location, design and construction materials of such facilities.

[\(12\).](#)

A description of the method of securing public water and the location, design and construction materials of such facilities.

[\(13\).](#)

The location of fire and other emergency zones, including the location of fire hydrants.

[\(14\).](#)

The location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.

[\(15\).](#)

The location, size and design and construction materials of all proposed signage.

[\(16\).](#)

The location and proposed development of all buffer areas, including an indication of existing vegetative cover.

[\(17\).](#)

The location and design of outdoor lighting facilities.

[\(18\).](#)

A designation of the amount of building area proposed for retail sales or any similar commercial activity.

[\(19\).](#)

A general landscaping plan and planting schedule.

[\(20\).](#)

Other elements integral to the proposed development, as considered necessary by the Director of Planning and Development, including identification of any state or county permits required for the project's execution.

[\(21\).](#)

Stormwater pollution prevention plan. A stormwater pollution prevention plan (SWPPP) consistent with Local Law No. 4-2007 shall be required for site plan approval.

Editor's Note: See Ch. [145](#), Stormwater Management, Art. [I](#), Erosion and Sediment Control, and Art. XV, Stormwater Control, in this Ch. [179](#), Zoning.

The SWPPP shall meet the performance, design criteria and standards set forth in Local Law No. 4-2007. The approved site plan shall be consistent with the provisions of Local Law No. 4-2007.

[Added 12-19-2007 by L.L. No. 4-2007]

[B.](#)

Required fee. An application for preliminary site plan review and approval shall be accompanied by a fee of \$25.

§ 179-40 Planning Commission review of preliminary site plan.

The Planning Commission's review of a preliminary site plan shall include, as appropriate, but is not limited to, the following:

[A.](#)

General considerations.

[\(1\).](#)

The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, channelization structures and traffic controls.

[\(2\).](#)

The adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

[\(3\).](#)

The location, arrangement, appearance and sufficiency of off-street parking and loading.

[\(4\).](#)

The location, arrangement, size, design and general site comparability of buildings, lighting and signage.

[\(5\).](#)

The adequacy of stormwater and drainage facilities.

[\(6\).](#)

The adequacy of the water supply and sewage disposal facilities.

[\(7\).](#)

The adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-detering buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.

[\(8\).](#)

In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.

[\(9\).](#)

Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.

[\(10\).](#)

The adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

[\(11\).](#)

Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

B. Consultant review. The Planning Commission shall consult with the Director of Planning and Development and may consult with the Conservation Commission, Commissioner of Public Works, other local and county officials and its designated private consultants, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

C. Public hearing. The Planning Commission may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Commission, such public hearing shall be conducted within 45 calendar days of the receipt of the application for preliminary site plan approval and shall be advertised in a newspaper of general circulation in the City at least five calendar days before the public hearing.

§ 179-41 Planning Commission action on preliminary site plan.

Within 60 calendar days of the receipt by the Building and Zoning Administrator of an application for preliminary site plan approval, the Planning Commission shall act on it. If no decision is made within said sixty-day period, the preliminary site plan shall be considered approved. The Planning Commission's action shall be in the form of a written statement to the applicant stating whether the preliminary site plan is approved, disapproved or approved with modifications. The Planning Commission's statement may include recommendations of desirable modifications to be incorporated in the final site plan, of which conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Commission's statement will contain the reasons for such findings. In such case, the Planning Commission may recommend further study of the site plan and resubmission to the Building and Zoning Administrator after it has been revised.

§ 179-42 Application for final detailed site plan approval.

A. After receiving approval, with or without modifications, from the Planning Commission on a preliminary site plan, the applicant shall submit a final detailed site plan to the Planning Commission for approval. If more than six months have elapsed since the time of the Planning Commission's action on the preliminary site plan and if the Planning Commission finds that conditions have changed significantly in the interim, the Planning Commission may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

B. The final detailed site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Planning Commission in its preliminary review. All such compliance shall be clearly indicated by the applicant on the appropriate submission.

C. Additional information to be submitted. The following additional information shall accompany an application for final detailed site plan approval:

(1). A record of application for and approval status of all necessary permits from state and county officials.

(2). Detailed sizing and final material specifications of all required improvements.

(3). An estimated project construction schedule.

§ 179-43 Planning Commission action on final detailed site plan.

Within 45 calendar days of receipt of the application for final site plan approval, the Planning Commission shall render a decision to the Building and Zoning Administrator. If no decision is made within the forty-five-day period, the final site plan shall be considered approved.

A. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due to the City, the Planning Commission shall endorse its approval on a copy of the final site plan and shall forward such copy to the Building and Zoning Administrator.

B. Upon disapproval of a final site plan, the Planning Commission shall so inform the applicant in writing of its decision and its reasons for disapproval. The Planning Commission shall also so inform the Building and Zoning Administrator who shall deny a building permit or certificate of occupancy to the applicant.

§ 179-44 Reimbursement costs.

A. Reasonable costs incurred by the Planning Commission to retain private consultants, including, but not limited to, attorneys and engineers, to assist with the review and evaluation of the proposed site plan application, shall be charged to the applicant. The costs shall be reasonable in amount and limited to activities necessary to the accomplishment of the Planning Commission's regulatory and governmental functions. Such reimbursement costs shall be in addition to the fee required by § 179-39B of this article.

B. This provision shall not apply to applications for minor projects. For purposes of this provision, minor projects shall include all projects classified as "Type II" actions pursuant to 6 NYCRR 617.5, and such other and similar small projects as the Planning Commission, in its discretion, may exempt from this provision.

C. The Planning Commission shall make a reasonable estimate of the amount of the private consultant expenses it expects to incur during the course of its review and evaluation. In making this estimate, the Planning Commission shall be guided by the following:

(1). Its previous experience of costs associated with site plan review of similar projects;

(2). In situations where the Planning Commission is the lead agency under the State Environmental Quality Review Act (SEQRA), the procedures and standards of 6 NYCRR 617.13 and the provisions of the City of Rensselaer Building Permit Fee Schedule regarding commercial projects (nonresidential structures and residential projects with four or more units);

(3). Where the project involves property that is or may be heavily contaminated by past industrial or commercial use, anticipated costs of consultants and/or City employees for testing, analysis, site monitoring and other actions reasonably needed to protect public health and safety may be assessed; and

(4). Discussions with the applicant's legal and technical representatives, appropriate City officials and the private consultants as to the likely course of the application review process and the issues likely to be encountered during that process.

D. Alternatively, the applicant may elect to make an initial deposit in the following amounts:

(1). Commercial site plan under 4,000 square feet: \$1,000, plus \$50 per required parking space.

(2). Commercial site plan over 4,000 square feet, but less than 10,000 square feet: \$2,500, plus \$50 per required parking space.

(3). Commercial site plan over 10,000 square feet: \$5,000, plus \$50 per required parking space.

E. The amount determined by the Planning Commission under Subsection C above, or the applicant under Subsection D above, shall be deposited by the applicant in escrow with the City Treasurer prior to the Commission's commencing any review of the application. If the amount so deposited is exhausted or diminished during the review process to the point that the Planning Commission determines that the remaining amount will not be sufficient to enable the Commission to complete its review of the application, the Commission may notify the applicant of the additional amount that must be deposited with the City Treasurer. This additional amount shall also be established in a manner consistent with the provisions of Subsection C, above, if the applicant fails to replenish the escrow account or there are unpaid amounts for which the applicant is responsible pursuant to this subsection, the Planning Commission, in its discretion, may:

(1).

Cease review of the application until such amounts are paid; or

(2).

Deny the application.

F.

In no event, however, shall any site plan approval be issued until all such sums reasonably assessed to the applicant have been paid in full. At the conclusion of the application review process, all funds not expended by the Planning Commission shall be returned to the applicant.

§ 179-45 Performance guaranty.

No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. The sufficiency of each performance guaranty shall be determined by the Planning Commission after consultation with the Director of Planning and Development, Public Works Commissioner or other persons.

§ 179-46 Inspection of improvements.

The Building and Zoning Administrator shall be responsible for the overall inspection of site improvements, including coordination with the Commissioner of Public Works and other officials and agencies, as appropriate.

§ 179-47 Integration of procedures.

Whenever the particular circumstances of a proposed development require compliance with either the special use procedure in this Zoning Law, the requirements of the City's Land Subdivision Regulations or the requirements of the State Environmental Quality Review Act,

Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

the Planning Commission shall attempt to integrate, as appropriate, site plan review as required by this article with the procedural and submission requirements for such other compliance.

ARTICLE VIII Planned Development Review (§ 179-48 — § 179-50)

§ 179-48 Objective.

The objective of this Planned Development (PD) Article is to provide appropriate land use and development regulations through the use of performance criteria so that a major new development or redevelopment effort may be planned with sensitivity and flexibility to the unique characteristics of its site. Through the planned development procedure, the City seeks to promote more efficient land use, more adequate and economic provision of streets, utilities and public spaces, greater preservation of the natural and scenic qualities of open areas and a better overall quality of site planning and design. The procedure is intended to permit diversification in the location of structures and other improvements while ensuring adequate standards relating to public health, safety, welfare and convenience both in the use and occupancy of buildings, facilities and land.

§ 179-49 General standards.

The legislative determination to establish a Planned Development District shall be based upon the following standards:

A.

Location. A Planned Development (PD) District may be established within any area of the City. Such PD District may be established only if the Planning Commission and the Common Council find that the objectives and provisions of this chapter are satisfied and the proposed development is fully consistent with the spirit and intent of the City Master Plan.

B.

Development area.

(1).

The minimum development area required to qualify for Planned Development District determination shall be as follows:

(a).

Three contiguous acres of land in a residential redevelopment area;

(b).

Five contiguous acres of land in a commercial or industrial redevelopment area; or

(c).

Ten contiguous acres of land for a new residential, commercial or industrial development.

(2).

Exceptions may be made only if the Planning Commission, upon recommendation of the Director of Planning and Development, shall find that a smaller tract, not less than 1/2 of the specified minimum, is suitable as a planned development because of unique historic or developmental considerations.

C.

Ownership. The tract of land for a planned development project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners of all property included within the project. In the case of multiple ownership, the approved planned development site plan and its amendment shall be binding upon all owners and their successors in title and interest.

D.

Permitted uses in Planned Development Districts. All uses within an area designated as a Planned Development District shall be determined by the provisions of this article and the approved plan for the project concerned.

(1).

Residential dwelling units may be of any variety of type and density as appropriate within the objective of this PD Article.

(2).

Private garages, storage spaces, recreational and community facilities shall be permitted as appropriate within the planned development.

(3).

Commercial, service and other nonresidential accessory uses may be permitted or required where such uses are scaled to primarily serve the residents of the planned development and as may be necessary in the surrounding neighborhood.

(4).

Based upon a market analysis, commercial, service, industrial and other nonresidential uses may be permitted as principal uses when such uses are integral to the design of the planned development, when supportive of the planned development and the surrounding neighborhood in terms of work force, design and character and when consistent with the City Master Plan.

E.

Intensity of land use. The density allowed within the planned development shall be determined by the approved planned development site plan, except that in any residential district, the density shall not exceed 120% of that otherwise permitted in the Area and Bulk Schedule for that district.

Editor's Note: The Schedule of Area and Bulk Regulations is located at the end of this chapter.

F.

Natural and recreational open space. Not less than 35% of the total area of any tract developed or proposed to be developed as a Planned Development District shall remain forever as common property reserved for a suitably landscaped and maintained open space system, including walkways, plazas, pools, fountains, lawns, trees and shrubs. Parking areas and vehicle access facilities shall not be considered in calculating such open space.

G.

Utilities. Required utilities shall be provided consistent with applicable City, county and state regulations.

H. Off-street parking. Off-street parking shall conform to the standards of the most appropriate zoning designation or designations. The minimum number of spaces may be reduced only if it can be demonstrated that a particular aspect of the planned development makes such appropriate.

I. Transportation. Special attention shall be given to pedestrian and vehicular linkages within the development and with the surrounding community. Direct access shall be provided to major streets, highways or other transportation facilities so as to prevent the generation of increased traffic along minor streets in residential neighborhoods.

§ 179-50 Procedure.

Whenever any planned development is proposed, before any permit for the erection of a permanent structure within such planned development shall be granted and before any subdivision plat of any part thereof may be filed in the office of the Rensselaer County Clerk, the landowner and developer, or other authorized representative, shall apply for and receive approval of such planned development in accordance with the procedure detailed in this article.

A. Prefiling conference. In order to allow the Planning Commission and the applicant to reach an understanding on the basic concepts and design requirements prior to detailed design and engineering investment, the applicant or his representative shall meet with the Director of Planning and Development to informally discuss the proposed project prior to the formal filing of an application or preparation of a sketch plan.

B. Sketch plan. Based upon the basic concepts and design requirements agreed upon during the prefiling conference, a sketch plan shall be submitted to the Clerk of the Planning Commission at least 10 days prior to its regular meeting. The sketch plan shall be so developed generally in accordance with Article VII, Section 2, of the City Land Subdivision Regulations.

C. Preliminary plat/site plan. After informal agreement on the practicality of the proposed planned development project and its conformance with the City Master Plan, the applicant shall then file with the City Planning Commission an application for preliminary plat/site plan approval according to the procedures and requirements identified in Article IV, Section 4, of the City Land Subdivision Regulations and Article VII of this chapter. A filing fee of \$25, plus \$50 per acre, shall be submitted with such application.

D. Planning Commission action on preliminary plat/site plan. Action upon the application for preliminary plat/site plan approval shall be taken by the Planning Commission according to procedures identified in Article IV, Section 4, of the City Land Subdivision Regulations. After the public hearing and upon approval of the preliminary plat/site plan by the Planning Commission, the applicant shall be permitted to proceed to either Subsection E(1) or (2) as determined appropriate by the Planning Commission and described below.

E. Alternative actions on an approved preliminary plat/site plan.

(1). If the proposed development project shown by the approved preliminary plat/site plan consists of uses and overall densities already permitted in the applicable zoning district, Planning Commission approval authorizes the applicant to submit a final plat/site plan without the need for the approval by the Common Council of a specific zoning amendment. This type of coordinated development may be used for a cluster development or other design variations where building bulk, spacing and open space are adjusted with flexibility to the land, while the use and density limitations of the original zoning district are strictly observed. The Planning Commission has authority to approve this type of design adjustment under § 37 of the General City Law.

(2). If the proposed development project proposes uses or overall densities not permitted in the applicable zoning district, the amendment procedure specified in Article XII of this chapter shall be followed at this point. In such a case, the Planning Commission shall transmit the complete application package to the Common Council for its review. If, in the opinion of the Common Council, the application is warranted, then the Common Council shall conduct a public hearing, as required by Article XII, to consider a Zoning Map amendment which would redesignate the area as a Planned Development (PD) District to be governed by the specific preliminary plat/site plan approved by the Planning Commission or as specifically amended by the Common Council as a condition of its approval. If the amendment is approved, the applicant may proceed to the final plat/site plan. A rejection by the Common Council shall terminate review of the proposal.

F. Preliminary plat/site plan binding. The approved preliminary plat/site plan, whether approved under Subsection E(1) or (2) above, shall be binding on final plat/site plans and future development of the project unless amended by this same procedure. The final plat/site plan must conform fully with the use, density and basic design expressed by the approved preliminary plat/site plan. Such approved preliminary plat/site plan shall become part of this chapter and shall be maintained in the permanent files of both the City Clerk and the Director of Planning and Development.

G. Final plat/site plan. The final plat/site plan shall be filed with the City Planning Commission according to the procedures and requirements identified in Article IV, Section 5, of the City Land Subdivision Regulations and Article VII of this chapter.

H. Planning commission action on preliminary plat/site plan. A public hearing, if held on the final plat/site plan, shall be held within 45 calendar days of its submission in final form. The Planning Commission shall either approve, conditionally approve, with or without modifications, or reject the final plat/site plan within 45 calendar days of submission or public hearing, whichever may be applicable. This time period may be extended only by mutual consent of the applicant and the Planning Commission. In the event of required modifications, the applicant shall submit a modified final plat/site plan. In the event of rejection, the applicant shall either return to the stage of the preliminary plat/site plan or waive further rights to project review, thereby terminating consideration of the proposal.

I. Building permits and filing requirements. A copy of the approved final plat/site plan shall be transmitted to the Building and Zoning Administrator who shall be authorized to issue building permits and/or certificates of occupancy for approved construction and uses in strict accordance with the approved final plat/site plan. The applicant shall also file a copy of the final plat/site plan in the office of the Rensselaer County Clerk within 60 calendar days of the approval thereof, as may be required.

J. Staging and scheduling. Final plats/site plans may be submitted for Planning Commission approval in stages and do not have to be submitted to cover the entire project development at any one time. Staged final plats/site plans shall be submitted and building permits applied for according to a general time schedule agreed upon by the Planning Commission during the preliminary plat/site plan review and approval phase.

ARTICLE IX Nonconforming and Noncomplying Structures, Uses and Lots (§ 179-51 — § 179-54).

§ 179-51 Applicability.

The provisions of this article shall apply to all structures, uses and lots existing on the effective date of this chapter, to all structures, uses and lots that may become nonconforming or noncomplying by reason of any subsequent amendment to this chapter and the Zoning Map which is a part thereof and to all complying structures housing nonconforming uses.

§ 179-52 Continuation of use.

Except as otherwise provided in this article, the lawful use of any building, structure or land existing at the time of the enactment of this chapter, or any applicable amendment thereto, may be continued, although such use does not conform to the provisions of this chapter.

§ 179-53 Regulation of nonconforming uses.

No existing building or structure, whether a noncomplying building or structure or devoted to a nonconforming use, shall be enlarged, extended, reconstructed or structurally altered except as follows:

A. Restoration. Any noncomplying building or structure or any building or structure housing a nonconforming use which, as a result of fire, explosion or other casualty, has less than 50% of its existing floor area made unsafe and/or unusable may be restored, reconstructed or used as before, provided that the bulk, height and area requirements shall not be in excess of that which existed prior to said damage. Such restoration must be commenced within six months and completed within two years of such occurrence or the use of such building, structure or land as a legal nonconforming use shall thereafter be terminated.

B. Extension and displacement. A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a noncomplying building or structure which existed prior to the

enactment of this chapter shall not be deemed the extension of such nonconforming use. No nonconforming use shall be extended to displace a conforming use.

C.
Unsafe structures. Any noncomplying building or structure or portion thereof or any building or structure housing a nonconforming use declared unsafe by a proper authority may be restored to a proper condition within the time period provided by such authority.

D.
Alterations and repairs.

(1)
A noncomplying building or structure for other than residential purposes or a building or structure housing a nonconforming use may not be reconstructed or structurally altered during its life to an extent that such alterations exceed in aggregate cost 50% of the full valuation of the building or structure, exclusive of the value of land, unless said building or structure is changed to a conforming use. A nonconforming building or structure containing a residential use may be altered in any way to improve interior livability, provided that no structural alteration shall be made which would increase the nonconformity with regard to the number of housing units or the bulk of the building or structure. Within the Floodway (FW) District, modifications, alterations and repairs to incorporate floodproofing measures shall be permitted, provided that such measures do not raise the water level of the one-hundred-year flood.

(2)
Normal maintenance repairs and incidental alteration of a noncomplying building or structure or a building or structure containing a nonconforming use shall be permitted, provided that said repairs and alterations do not extend the volume or area of space occupied by the nonconforming use.

E.
Change of use.

(1)
With prior approval of the Zoning Board of Appeals, a nonconforming use of structure may be changed to another nonconforming use of an equal or more restricted classification, provided that no structural change, enlargement, extension or reconstruction is made.

(2)
A nonconforming use may be changed into a conforming use.

(3)
When a nonconforming use is changed to a conforming use or a more restricted nonconforming use, the use of the structure, building or land shall not thereafter be changed into a nonconforming use or a less restricted nonconforming use.

F.
Prior approval. Nothing herein contained shall require any change in the plans, construction or designated use of a building complying with existing laws, a building permit for which had been duly granted before the date of adoption of this chapter or any applicable amendment thereto, provided that said building shall be completed according to such plans as filed within 12 months from the effective date of this chapter.

§ 179-54 Termination of certain nonconforming uses and noncomplying structures.

A.
Abandonment. The discontinuance of a nonconforming use for a period of one year and/or the change of use to a more restrictive or conforming use for any period of time shall be considered an abandonment thereof, and such nonconforming use shall not thereafter be reestablished. Intent to resume active operations shall not constitute continuance of a nonconforming use nor confer the right to do so.

B.
Partial destruction. Should any noncomplying building or structure, as a result of fire, explosion or other casualty, have 50% or more of its existing floor area destroyed, the use of such building or structure as a noncomplying building or structure shall thereafter be terminated, and any new construction shall be in full accordance with the regulations of this chapter.

C.
Amortization. Each of the nonconforming structures or uses specified is deemed sufficiently objectionable, undesirable and out of character in the zoning district in which such use or structure is located as to depreciate the value of the property and uses permitted in the district and otherwise inhibit the proper and orderly development of such district. Therefore, each such nonconforming use or structure must be, and shall be, terminated on or before the expiration of the specified period of time after the effective date of this chapter. Said period of time is specified for the purpose of permitting the amortization of the remaining value, if any, of such use.

(1)
In all districts except the Heavy Industrial District, any nonconforming use of open land, including but not limited to such uses as junkyards, motor vehicle junkyards or open storage yards for materials or equipment, may be continued for three years after the effective date of this chapter, provided that, after the expiration of such period, such nonconforming use shall be terminated.

(2)
All nonaccessory, off-site advertising signs, including but not limited to billboards, and related sign structures not in conformity with the sign regulations included in Article V of this chapter may be continued for three years after the effective date of this chapter, provided that, after the expiration of such period, such nonconforming sign shall be terminated.

(3)
Any noncomplying sign, either accessory or nonaccessory, including such features as prohibited in Article V of this chapter, shall be modified by its owner to conform or be removed within 60 days after receipt by the owner of specific written notice from the Building and Zoning Administrator to so comply.

D.
Removal of obsolete signs. Any sign existing on or after the effective date of this chapter which advertises a business no longer conducted or service no longer provided on the premises shall be removed by the owner of the premises upon which the sign is located within 30 days after receiving written notice from the Building and Zoning Administrator to remove said obsolete sign.

ARTICLE X Administration and Enforcement (§ 179-55 — § 179-58).

§ 179-55 Enforcement officer designated, right of entry.

A.
The Building and Zoning Administrator shall administer and enforce all provisions of this chapter except where otherwise herein specifically required. Whenever any permit or other approval is required herein, the same shall be applied for and shall be issued in the first instance from the Building and Zoning Administrator in accordance with the requirements of this chapter and applicable City regulations governing building construction and the issuance of building permits.

B.
The Building and Zoning Administrator and his duly authorized representatives shall have the right to enter upon, examine, inspect or cause to be entered, examined and inspected any building or property at any reasonable time for the purpose of carrying out his duties and to determine compliance with the provisions of this chapter. A written report of each such examination and inspection shall be prepared on an appropriate form and kept on file in the offices of the Building and Zoning Administrator located within the Planning and Development Agency.

§ 179-56 Powers and duties of Building and Zoning Administrator.

In addition to all other authority conferred by law and within this chapter, the Building and Zoning Administrator shall have the following powers and duties with respect to this chapter.

A.
Issuance of building permits. No building or structure shall be erected, altered, reconstructed or enlarged until the Building and Zoning Administrator has issued a building permit stating that the proposed use and structure comply fully with all applicable provisions of this chapter. More particularly, no building permit shall be issued for any building where the site plan of such building is subject to approval by the Planning Commission, except in strict conformity with the plans approved by said Commission, and no building permit shall be issued for any special use in any district where such use is subject to approval by the Planning Commission unless and until such approval has been duly granted by said Commission.

B.
Issuance of certificates of occupancy. No use shall be established on land or structure occupied, nor shall any existing use of land or structure be changed, until the Building and Zoning Administrator has issued a certificate of occupancy stating that the use, land and structure comply with all applicable provisions of this chapter. More particularly, no certificate of occupancy shall be issued for any special use of a building or of land requiring special permit approval by the Planning Commission unless and until such special permit or site plan approval has been

granted by the Planning Commission. Every certificate of occupancy for which special permit or site plan approval has been granted, or in connection with which a variance has been granted by the Board of Appeals, shall contain a detailed statement of any condition to which the same is subject, and shall include, by attachment, a copy of such Board of Appeals decision.

C. Issuance of notices of violation. Whenever, in the opinion of the Building and Zoning Administrator after proper examination and inspection, there appears to exist a violation of any provision of this chapter or of any rule or regulation adopted pursuant thereto, he shall serve a written notice upon the appropriate person responsible for such alleged violation. Such notices shall be served in accordance with the requirements of § [179-57](#) herein.

D. Issuance of stop-orders. Whenever the Building and Zoning Administrator has reasonable grounds to believe that work on any building or structure or any use of land is occurring either in violation of the provisions of this chapter, not in conformity with any application made, permit granted or other approval issued hereunder or in an unsafe or dangerous manner, the Building and Zoning Administrator shall promptly notify the appropriate person responsible to suspend the work on any such building or structure or the use of any such land. Such persons shall forthwith suspend such activity until the stop-order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work or use may be resumed and shall be served upon the person to whom it is directed, either by delivering it personally to him or by posting the same upon a conspicuous portion of the building under construction or premises in use and additionally sending a copy of the same by certified mail.

E. Emergency action. If, in the opinion of the Building and Zoning Administrator, a violation exists which requires immediate action to avoid a direct hazard or imminent danger to the health, safety, morals or welfare of occupants of a building or to other persons, the Building and Zoning Administrator may direct such violation immediately remedied or may take direct action on his own initiative to abate the hazard and danger. Any costs incurred by such action shall be paid for by the owner, occupant or person responsible for the violation. The Building and Zoning Administrator shall keep on file an affidavit, stating with fairness and accuracy the items of expense and date of execution of action taken, and is furthermore authorized to institute a suit, if necessary, against the person liable for such expenses or to place a lien against property in order to recover said costs.

§ 179-56.1 Designation of private consultant to act on behalf of Building and Zoning Administrator.

[Added 3-15-2006 by L.L. No. 1-2006]

A. In the absence of a City Building and Zoning Administrator, or in the case of his inability to serve for any reason, the Mayor shall have the power, with the approval of the Common Council, to designate or retain a person or firm (hereafter "private consultant") to assist or act on behalf of the Building and Zoning Administrator (BZA) and to exercise any or all the powers conferred upon the BZA by law related to the administration and enforcement of the Uniform Code. The terms of the private consultant's designation or retainer, and the scope of its services to the City, shall be specified in a written agreement with the City. Reasonable costs incurred by the City for the services of such private consultants shall be charged to the applicants for building permits or certificates of occupancy on building projects subject to said private consultant's review or oversight, as set forth in Subsection [C](#) herein.

B. The BZA may, in his discretion, accept and rely upon the written reports of such private consultants in carrying out the powers conferred upon him by law.

C. Reasonable costs incurred by the BZA and/or the City to retain private consultants, including but not limited to attorneys and engineers, to act in the manner set forth in Subsection [A](#), above, shall be charged to applicants for building permits or certificates of occupancy. The costs shall be reasonable in amount and limited to activities necessary to the accomplishment of the BZA's functions or activities within the scope of the private consultant's services to the City. No certificate of occupancy for any premises, building or structure subject to the Uniform Code will be issued prior to payment by the applicant of all costs assessed pursuant to this provision.

§ 179-57 Notice of violation; hearing.

A. Notice of violation. A notice of violation of any provision of this chapter, or of any rule or regulation adopted pursuant thereto, shall inform the recipient of:

(1). The nature and specific details of such violation.

(2). Recommended remedial action which, if taken, will effect compliance with the provisions of this chapter and with rules and regulations adopted pursuant thereto.

(3). The date of compliance by which the violation must be remedied or removed.

(4). The recipient's right to a hearing before the Building and Zoning Administrator, as provided below.

B. Request for hearing. Any person served with such notice of violation and who denies the existence of the violation or is allegedly aggrieved by the required action necessary for compliance may, within 10 calendar days of service of the notice, request, in writing, a hearing before the Building and Zoning Administrator, specifically noting the reasons why such hearing is requested.

(1). Within 10 calendar days after receipt of such request for a hearing, the Building and Zoning Administrator shall acknowledge receipt in writing and set a time and place for such hearing not later than 30 calendar days after the date such request was received. Such hearing may be postponed beyond such thirty-day limit for just cause, with notice of such postponement served. At such hearing, the person requesting the hearing shall be required to show just cause and give evidence why he should not be required to remedy the violation or why he is unable to comply with the remedial action outlined in the notice of violation.

(2). After consideration of all testimony given at such hearing, the Building and Zoning Administrator shall either sustain, withdraw or modify the notice of violation as originally served. If the notice is sustained or modified, the Building and Zoning Administrator shall set a new compliance date either consistent with the original notice of violation or extended, as appropriate. Such extension shall only be permitted if there exists both reasonable evidence of intent to comply and reasonable conditions which prevent compliance by the previously specified date.

§ 179-58 Penalties for offenses.

A. Penalty. Violation of any provision or requirement of this chapter or violation of any statement, plan, application, permit or certificate approved under the provisions of this chapter shall be considered an offense punishable by a fine of not more than \$250 and/or imprisonment for not more than six months for each such offense. The owner, general agent or contractor of a building premises, or part thereof, where such a violation has been committed or does exist, and any agent, contractor, architect, builder, corporation or other person who commits, takes part or assists in such violation, shall be liable for such an offense. All such penalties shall be collectible by and in the name of the City; each and every day that any such violation continues after notification that such violation exists shall constitute a separate offense. Such notice shall be given in writing by the Building and Zoning Administrator and shall be served by certified mail or personal service.

B. Court action. The imposition of penalties herein prescribed shall not preclude the City or any person from instituting appropriate legal action or proceedings to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation or to prevent the illegal occupancy of a building, land or premises.

C. Taxpayer action. If the Building and Zoning Administrator fails or refuses to act upon or refer a violation of this chapter to the Corporation Counsel for legal action in accordance with the provisions contained herein within a ten-calendar-day period following written request by any taxpayer to so proceed, then any three or more taxpayers of the City of Rensselaer may institute appropriate legal action in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

ARTICLE XI Zoning Board of Appeals (§ 179-59 — § 179-61)

§ 179-59 Creation, appointment and organization.

[Amended 11-20-1991]

A Zoning Board of Appeals is hereby created in accordance with § 81 of the General City Law. Said Board shall consist of seven members, appointed by the Mayor for a term of three years and subject to removal for cause after public hearing. The Mayor shall designate the Chairman of the Board of Appeals, while the Board of Appeals shall designate its Secretary and shall prescribe reasonable rules for the conduct of its affairs.

§ 179-60 Powers and duties.

The Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows:

A.
Interpretation: on appeal from an order, requirement, decision or determination made by an administrative official, or on request by an official, board or agency of the City, to decide any of the following questions:

(1).
A determination of the meaning of any portion of the text of this chapter or of any conditions or requirement specified or made under the provisions of this chapter.

(2).
A determination of the exact location of any district boundary shown on the Zoning Map.

B.
Variances: to authorize, upon appeal in specific cases, such variances from the terms of this chapter as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, there are unnecessary hardships or practical difficulties in the way of carrying out of the strict letter of this chapter subject to terms and conditions to be fixed by the Board; provided, however, that no such variance shall be granted unless the Board finds that:

(1).
There are physical conditions, such as the case of an exceptionally irregular, narrow, shallow or steep lot, fully described in the findings of the Board, applying to the land or building for which the variance is sought, which conditions are peculiar to such land or building and have not resulted from any act of the applicant or any predecessor in title.

(2).
For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building and the granting of the variance is necessary for the reasonable use of the land or building and that the variance, as granted by the Board, is the minimum variance that will accomplish this purpose.

(3).
The granting of the variance under such conditions as the Board may deem necessary or desirable to apply thereto will be in harmony with the general purpose and intent of this chapter, will not represent a radical departure therefrom, will not be injurious to the neighborhood, will not change the character thereof and will not be otherwise detrimental to the public welfare.

§ 179-61 Procedure.

The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law and this chapter.

A.
Meetings. Meetings shall be held at the call of the Chairman or at such other times as the Board of Appeals may determine. A quorum shall consist of three members, but in order to reverse a decision of the enforcement official or authorize a variance, an affirmative vote of at least three members shall be required. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its examinations and other official actions.

B.
Application and fee. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board, and shall be accompanied by a fee of \$40. Every appeal or application shall refer to the specific provision of this chapter that is involved and shall precisely set forth either the interpretation that is claimed or the details of the variance that is applied for and the grounds on which it is claimed that such variance should be granted.

C.
Public notice and hearing. The Board shall fix a time and place for a public hearing on any such appeal or application and shall provide notice as follows:

(1).
By publishing at least 10 calendar days prior to the date thereof a notice in the official newspaper of the City.

(2).
By requiring the Director of Planning and Development to give notice at least five days prior to the date thereof of the substance of every appeal for a variance, together with a notice of hearing thereon, by mailing such to the owners of all property abutting that held by the applicant and all other owners within 200 feet, or such additional distances as the Board of Appeals may deem advisable, from the boundaries of the land involved in such appeal. Compliance with this notification procedure shall be certified to by the Director of Planning and Development.

(a).
The names of owners notified shall be taken as such appear on the last completed tax roll of the City.

(b).
Provided that there shall have been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Board of Appeals in connection with granting or denying of an appeal for a variance.

(3).
By requiring the Secretary of the Board of Appeals to transmit to the Secretary of the Planning Commission a copy of the notice of such hearing at least 20 calendar days prior to the date thereof. The Board of Appeals shall request that the Planning Commission submit to the Board of Appeals an advisory opinion prior to the date of such hearing. Upon failure of the Planning Commission to submit such report, said Commission shall be deemed to have recommended approval of the application or appeal.

(4).
If the land involved in the appeal lies within 500 feet of the boundary of any other municipality, the Secretary of the Board of Appeals shall also submit, at least 10 calendar days prior to the public hearing, to the Municipal Clerk of such other municipality or municipalities a copy of the notice of the substance of every appeal, together with a copy of the official notice of such public hearing.

D.
Required referral. A full statement of any appeal that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law shall also be referred to the Rensselaer County Bureau of Planning for its review. No action shall be taken by the Board of Appeals on such appeal until an advisory recommendation has been received from the Bureau of Planning or 30 calendar days have elapsed since the Bureau received such full statement.

E.
Decisions. Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision shall be by resolution of the Board, with each such decision being filed in the office of the City Clerk within 10 calendar days thereof. The Board shall notify the Building and Zoning Administrator, the Secretary of the Planning Commission and the Municipal Clerk of any affected municipality given notice of hearing of its decision in each case.

F.
Attachment of conditions. In all cases where the Board of Appeals grants a variance from the strict application of the requirements of this chapter, it shall be the duty of such Board to attach conditions and safeguards as may be required in order that the result of its action shall be as nearly as possible in accordance with the spirit and intent of this chapter.

G.
Expiration of approval. Unless construction or use is commenced and diligently pursued within six months of the date of the granting of a variance, such variance shall become null and void.

H.
Strict construction. All the provisions of this chapter relating to the Board of Appeals shall be strictly construed; the Board, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this chapter and in strict compliance with all limitations contained therein; provided, however, that if the procedural requirements set forth in this chapter have been substantially observed, no applicant or appellant shall be deprived of the right of an application or an appeal.

ARTICLE XII Miscellaneous Provisions (§ 179-62 — § 179-63)**§ 179-62 Amendment procedure.**

This chapter or any part thereof, including the Zoning Map indicating the district boundaries, may from time to time be amended, supplemented, changed, modified or repealed by the Common Council in the manner provided by §§ 20 and 83 of the General City Law. Every proposed amendment or change shall be referred by the Common Council to the Planning Commission for its review and recommendation pursuant to § 30 of the General City Law and pursuant to the specific provisions of this chapter.

A.
Report of the Planning Commission. In undertaking such review and making such recommendation on a proposed amendment, the Planning Commission shall make, with the assistance of the Director of Planning and Development, inquiry and determination concerning the items specified below:

(1).
Concerning a proposed amendment or change in the text of this chapter:

(a).
Whether such change is consistent with the purposes embodied in this chapter as applied to the particular district concerned.

(b).
Which areas and establishments in the City will be directly affected by such change and in what way will they be affected.

(c).
The indirect implications of such change in its effect on other regulations.

(d).
Whether such proposed amendment is consistent with the underlying objectives of the City's Comprehensive Plan.

(2).
Concerning a proposed amendment involving a change in the Zoning Map:

(a).
Whether the uses permitted by the proposed change would be appropriate in the area concerned.

(b).
Whether adequate public school facilities and other public services exist or can be created to serve the needs of any additional residences likely to be constructed as a result of such a change.

(c).
Whether the proposed change is in accord with any existing or proposed plans in the vicinity.

(d).
The effect of the proposed amendment upon the development of the City as foreseen by the Comprehensive Plan.

(e).
Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the City and the probable effect thereof.

B.
Common Council procedure.

(1).
Public notice and hearing. The Common Council, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given as follows, in accordance with the General City Law.

(a).
By publishing a notice at least 10 calendar days prior to the time of such hearing in a paper of general circulation in the City, specifying:

[1]
The nature of the proposed amendment.

[2]
The land or district affected.

[3]
The date, time and place where the public hearing shall take place.

(b).
By providing a copy of such notice of any proposed change or amendment affecting property within 500 feet of any other municipality to the Clerk of such municipality at least 10 calendar days prior to the date of such public hearing.

(2).
Mandatory referral. The Common Council shall transmit a full statement of any proposed amendment that meets the referral requirements of §§ 239-1 and 239-m of the General Municipal Law to the Rensselaer County Bureau of Planning for its review. No action shall be taken by the Common Council on such proposed amendment until a recommendation has been received from the Bureau of Planning or 30 calendar days have elapsed since the Bureau received such full statement.

(3).
Action. The Common Council may approve any such proposed amendment by a majority vote of said Council, except that:

(a).
A favorable vote of at least six members of the Common Council, a majority plus one, shall be required if the action being taken is contrary to the recommendation received from the Rensselaer County Bureau of Planning under the provisions of §§ 239-l and 239-m of the General Municipal Law.

(b).
A favorable vote of at least seven members of the Common Council, a three-fourths vote, shall be required if a protest against such amendment has been signed by the owners of at least 20% of the land area included in such proposed change or of that immediately adjacent extending 100 feet therefrom or that directly opposite.

§ 179-63 Interpretation; conflict with other laws.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements, as adopted, for the protection of the public health, safety and general welfare. Whenever the requirements of this chapter are in conflict with the requirements of any other lawfully adopted rules, regulations, ordinances or local laws, the more restrictive provisions, or those imposing the higher standards, shall govern.

ARTICLE XIII (Reserved) (§ 179-64 — § 179-68)

§ 179-64 (Reserved)

§ 179-65 (Reserved)

§ 179-66 (Reserved)

§ 179-67 (Reserved)

§ 179-68 (Reserved)

ARTICLE XIV (Reserved) (§ 179-69 — § 179-73)

§ 179-69 (Reserved)

§ 179-70 (Reserved)

§ 179-71 (Reserved)

§ 179-72 (Reserved)

§ 179-73 (Reserved)

ARTICLE XV Stormwater Control (§ 179-74 — § 179-85)

[Added 12-19-2007 by L.L. No. 4-2007]

§ 179-74 Definitions.

As used in this article, the following terms shall have the meanings indicated:

AGRICULTURE

The use of land for sound agricultural purposes, including farming, dairy, horse boarding, pasturing, grazing, horticulture, floriculture, viticulture, timber harvesting, animal and poultry husbandry, and those practices necessary for the on-farm production, preparation, and marketing of agricultural commodities. "Agriculture" does not include dude ranches or similar operations.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC)

A person who has received training and is certified by CPESC Inc. to review, inspect and/or maintain erosion and sediment control practices.

CLEARING

Any activity that removes the vegetative surface cover.

COMMENCEMENT OF CONSTRUCTION

The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

DESIGN MANUAL

The New York State Stormwater Management Design Manual, most recent version, including applicable updates, which serves as the official guide for stormwater management principles, methods and practices.

EROSION

The wearing away of the land surface by action of wind, water, gravity, or other natural forces.

EROSION AND SEDIMENT CONTROL PLAN

A set of plans prepared by or under the direction of a licensed/certified professional indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

EROSION CONTROL MANUAL

The most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book."

GRADING

Excavation of fill, rock, gravel, sand, soil or other natural material, including the resulting conditions therefrom.

LAND DEVELOPMENT ACTIVITY

Construction activity, including clearing, grading, excavating, soil disturbance, or placement of fill, resulting in land disturbance of equal to or greater than one acre. Also includes activities disturbing less than one acre of total land area that are part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LICENSED/CERTIFIED PROFESSIONAL

A person currently licensed to practice engineering or landscape architecture in New York State or who is a certified professional in erosion and sediment control (CPESC).

MINING

Any excavation subject to permitting requirements of the State Department of Environmental Conservation under the Mined Land Reclamation Law (Environmental Conservation Law, Article 23, Title 27).

Editor's Note: See § 23-2701 of the Environmental Conservation Law.

NOTICE OF INTENT (NOI)

A permit application prepared and filed by an owner or operator with the Department of Environmental Conservation as an affirmation that a stormwater pollution prevention plan (SWPPP) has been prepared and will be implemented in compliance with the State Pollution Discharge Elimination System general permit for stormwater runoff for construction activity (GP-02-01).

OPERATOR

The person, persons, or legal entity which owns or leases the property on which the construction activity is occurring.

PERIMETER CONTROL

A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

PHASING

Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

PROJECT, MAJOR

Any land development activity that disturbs one acre or more, including all commercial, industrial, or mixed-use development, as well as any residential development consisting of buildings that contain two or more dwelling units, or any land development activity not classified as a minor project. The operator of a major project must submit an SWPPP that addresses water quality and quantity controls in addition to erosion and sedimentation controls.

PROJECT, MINOR

Any land development activity associated with a permitted agricultural use or single-family residential construction/subdivision that disturbs between one and five acres and is not discharging stormwater directly to a water body listed on New York State 2002 Section 303(d) list of impaired water bodies. At present in Rensselaer County, Snyder's Lake is the only water body on the list, due to phosphorous levels associated with urban runoff. The operator of a minor project must submit an SWPPP that addresses erosion and sedimentation controls.

REDEVELOPMENT

Refers to the reconstruction or modification to any existing, previously developed land, such as residential, commercial, industrial, institutional, or road or highway, which involves soil disturbance.

SEDIMENT

Solid material, both mineral and organic, which is in suspension, is being transported, has been deposited, or has been removed from its site of origin.

SELECTIVE CUTTING

The cutting of more than 1/2 of the existing living trees measuring six inches in diameter at breast height (DBH) in an area of one acre or more, over a period of two consecutive years.

SITE

A parcel of land or a contiguous combination thereof, where grading work is performed as a single, unified operation.

SITE DEVELOPMENT PERMIT

A permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

SLOPES, SEVERE

Ground areas with a slope greater than 25% covering a minimum horizontal area of 1/4 acre or 10,890 square feet and a minimum horizontal dimension of 10 feet.

SLOPES, STEEP

Ground areas with a slope greater than 15% covering a minimum horizontal area of 1/4 acre or 10,890 square feet and a minimum horizontal dimension of 10 feet.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITY, GP-02-01

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

STABILIZATION

Covering or maintaining an existing cover or soil. Cover can be vegetative (e.g., grass, trees, seed and mulch, shrubs, or turf) or nonvegetative (e.g., geotextiles, riprap, or gabions).

STABILIZATION, FINAL

All soil-disturbing activities at the site have been completed and that a uniform perennial vegetative cover with a density of 80% has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed on all unpaved areas and areas not covered by permanent structures.

START OF CONSTRUCTION

The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling.

STORMWATER POLLUTION PREVENTION PLAN

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

SURFACE WATERS OF THE STATE OF NEW YORK

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATERCOURSE

Any body of water, including but not limited to lakes, ponds, rivers, streams, and intermittent streams.

WATERCOURSE BUFFER

A horizontal distance 50 feet away from and parallel to the high water level of a watercourse.

WETLANDS

Those areas that are inundated or saturated by surface water or groundwater at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include those areas determined to be wetlands by the U.S. Army Corps of Engineers or the New York State Department of Environmental Conservation.

§ 179-75 Review and approval.**A.**

No application for a land development activity shall be approved until the responsible board and/or department has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications contained herein.

B.

Review of plan; approval procedure.

(1).

For land development activity not subject to special permit, site plan, or subdivision requirements, the City of Rensselaer Engineer, or designated agent, shall review the SWPPP to determine its completeness and conformance with the provisions herein. Within 30 days of receipt of an SWPPP or 60 business days if the SWPPP identifies practices or designs that deviate from the prescribed standards established by § 179-80 of this code, the City of Rensselaer Engineer, or designated agent, shall make a determination as to whether it is complete. If it is deemed incomplete, the applicant shall be notified in writing as to the deficiencies in the plan and the requirements for completeness. Within 30 days after receiving a complete plan, the City of Rensselaer Engineer, or designated agent, shall, in writing:

(a).

Approve the permit application;

(b).

Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation and issue the permit subject to these conditions; or

(c).

Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

(2).

Failure of the City of Rensselaer Engineer, or designated agent, to act on a complete original or revised application within 30 days of receipt shall authorize the applicant to proceed in accordance with the SWPPP as filed unless such time is extended by agreement between the applicant and the City of Rensselaer. Pending preparation and approval of a revised plan, land development activities shall not be allowed to proceed. Nothing herein shall relieve an applicant's need to obtain a building permit as required by City of Rensselaer Code or file an NOI with the New York State Department of Environmental Conservation.

C.

For land development activity subject to special permit, site plan, or subdivision requirements, the responsible board shall incorporate the required SWPPP into the review process, allowing for public review and comment on the SWPPP. The responsible board, in consultation with the City of Rensselaer Engineer, or designated agent, shall determine the adequacy of the SWPPP. For projects subject to subdivision requirements, preliminary plat approval shall not be granted until the Planning Board has received an SWPPP prepared in accordance with the specifications contained herein.

D.

In its review of the plan, the responsible board or municipal official may consult with the City of Rensselaer Engineer, the Rensselaer County Soil and Water Conservation District, the New York State Department of Environmental Conservation, or retain any other licensed/certified professionals qualified in the review and/or design of stormwater management and erosion control plans as are determined to be necessary to carry out the review of an SWPPP. Payment for the services of such professionals shall comply with § 145-6.

§ 179-76 Stormwater pollution prevention plan contents.**A.**

All designs and procedures to prevent stormwater pollution as set forth within the SWPPP shall be designed in compliance with the New York Standards and Specifications for Erosion and Sediment Control and the New York State Stormwater Management Design Manual as stipulated in § 179-80 of this article. The SWPPP shall include the following:

(1).

A written narrative identifying the project's scope, including the location, type, and size of the project.

(2).

A site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of stormwater discharge(s). The specific location(s), size(s), and length(s) of each erosion and sediment control practice shall also be shown. Site maps/construction drawings shall be at a scale no smaller than one inch equals 100 feet.

(3).

A natural resources map identifying existing vegetation; on-site and adjacent off-site surface water(s), wetlands, and drainage patterns that could be affected by the construction activity; and existing and final slopes.

(4).

A description of soil(s) present at the site along with any existing data that describes the stormwater runoff characteristics at the site.

(5).

A construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing; excavation and grading; utility and infrastructure installation; and any other activity at the site that results in soil disturbance. Phasing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation. Consistent with the New York Standards and Specifications for Erosion and Sediment Control, there shall not be more than five acres of disturbed soil at any one time without prior written approval from the Department of Environmental Conservation.

(6).

A description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in the stormwater discharges and runoff.

(7).

A description of construction and waste materials expected to be stored on site, with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.

(8).

A description of the temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project closeout. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.

(9).

The dimensions, material specifications (e.g., seeding mixtures and rates, types of sod, kind and quantity of mulching) and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins. Temporary practices that will be converted to permanent control measures shall be shown.

(10).

An implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and the duration that each practice should remain in place.

(11).

A maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practices, including estimates of the cost of maintenance.

(12).

Name(s) of the receiving water(s) and any existing data that describes the stormwater runoff at the site.

(13).

Identification of the person or entities responsible for implementation of the SWPPP for each part of the site.

(14).

A description of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.

(15).

A site map/construction drawing(s) of each postconstruction stormwater practice, including a description of each postconstruction stormwater control practice, including specific location(s) and size(s), dimensions, material specifications and installation details. The New York State Stormwater Management Design Manual shall serve as the technical design standard. Deviations from this Design Manual are permitted subject to review and approval by the New York State Department of Environmental Conservation within 60 business days of receipt of a completed notice of intent (NOI).

B.

For major projects, the following shall also be provided:

(1).

A hydrologic and hydraulic analysis for all structural components of the stormwater control system for the applicable design storms.

(2).

A comparison of postdevelopment stormwater runoff conditions with predevelopment conditions.

(3).

Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater control practice.

(4).

Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.

(5).

Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with this article and Article 1 of Chapter 145.

§ 179-77 Plan certification.

The SWPPP shall be prepared by a licensed/certified professional. The SWPPP must be signed by the professional preparing the plan and shall make the following certification:

<p>"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that false statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law."</p>
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§ 179-78 Contractor certification.

A. The SWPPP must clearly identify each contractor(s) and subcontractor(s) involved in soil disturbance that

will implement each stormwater and erosion control measure. Each contractor and subcontractor identified in the SWPPP shall sign a copy of the following certification statement before undertaking any land development activity:

<p>"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan (SWPPP) as a condition of authorization to discharge stormwater. I also understand that the operator must comply with the terms and conditions of the New York State Pollutant Discharge Elimination System (SPDES) general permit for stormwater discharges from construction activities and that it is unlawful for any person to cause or contribute to a violation of water quality standards."</p>
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B. The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date

the certification is made.

C.

The certification statement(s) shall become part of the SWPPP for the land development activity.

§ 179-79 SWPPP review and amendment.

A.

The permittee shall amend the SWPPP whenever there is a significant change in design, construction, operation, or maintenance which may have a significant effect on the potential for the discharge of pollutants to the waters of the United States and which has not otherwise been addressed in the SWPPP; or

B.

The SWPPP proves to be ineffective in:

(1).

Eliminating or significantly minimizing pollutants from sources identified in the SWPPP; or

(2).

Achieving the general objectives of controlling pollutants in stormwater discharges from permitted construction activity.

C.
Additionally, the SWPPP shall be amended to identify any new contractor or subcontractor that will implement any measure of the SWPPP.

D.
Significant amendments or changes to the SWPPP as outlined above in Subsections A and B may be subject to review and approval in the same manner as § 179-75 herein.

§ 179-80 Design and performance standards.

A.
Grading, erosion and sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the New York Standards and Specifications for Erosion and Sediment Control published by the Empire State Chapter of the Soil and Water Conservation Society. For the design of postconstruction structures, the technical standards are currently detailed in the publication New York State Stormwater Management Design Manual published by the Department of Environmental Conservation. Where stormwater management practices are not in accordance with above design and technical standards, the applicant or developer must demonstrate equivalence to the design and technical standards set forth in this section, and the equivalence shall be documented and certified by a licensed/certified professional as part of the SWPPP.

B.
Cut and fill slopes shall be no greater than 2:1, except where retaining walls, structural stabilization or other methods acceptable to the City of Rensselaer designated licensed/certified professional are used. Disturbed areas shall be restored as natural-appearing landforms and shall blend in with the terrain of adjacent undisturbed land. Abrupt, angular transitions shall be avoided.

C.
Clearing and grading shall be substantially confined to designated building envelopes, utility easements, driveways, and parking footprint. Clearing and grading techniques that retain natural vegetation and drainage patterns, as described in the most recent version of Standards and Specifications for Erosion and Sediment Control referenced above, shall be used to the satisfaction of the responsible board. No clearing or grading shall take place within the established fifty-foot watercourse buffer area except to provide road crossings where permitted.

D.
Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

E.
Phasing shall be required on all sites disturbing greater than 30 acres, with the size of each phase to be established at plan review and as approved by the responsible board. There shall not be more than five acres of disturbed soil at any one time without prior written approval from the New York State Department of Environmental Conservation.

F.
The permittee shall initiate stabilization measures as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. This requirement does not apply in the following instances:

(1).
Where the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable.

(2).
Where construction activity on a portion of the site is temporarily ceased and earth-disturbing activities will be resumed within 21 days, temporary stabilization measures need not be initiated on that portion of the site.

G.
The mere parking and moving of construction vehicles around the site does not constitute construction or earth-disturbing activity. If the permittee is not diligently pursuing the project toward completion as determined by the City Zoning Enforcement Officer or designated agent, he/she may issue a notice of violation (See § 145-7A.) and stipulate that the stabilization measures as outlined above shall be undertaken to prevent site erosion.

H.
If seeding or another vegetative erosion control method is used, it shall become established within 14 days, or the applicant may be required to reseed the site or use a nonvegetative option.

I.
Special techniques that meet the design criteria outlined in the most recent version of Standards and Specifications for Erosion and Sediment Control shall be used to ensure stabilization on steep slopes or in drainageways.

J.
Soil stockpiles must be stabilized or covered at the end of each workday.

K.
The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.

L.
Techniques shall be employed to prevent the blowing of dust or sediment from the site.

M.
Techniques that divert upland runoff past disturbed slopes shall be employed.

N.
Adjacent properties shall be protected by the use of a vegetated buffer strip in combination with perimeter controls.

O.
In general, wetlands and watercourses should not be filled, graded or altered. The crossing of watercourses should be avoided to the maximum extent practicable. When protection of wetlands, watercourses, trees, steep slopes or other environmentally sensitive areas is required, the location shall be shown on the erosion control plan and the method of protection during construction identified (e.g., silt fence, construction fence, stakes, etc.). A vegetative buffer (25 feet minimum) shall be maintained between disturbed areas and protected federal wetlands that are not proposed to be filled as part of an Army Corps of Engineers wetlands permit. In the case of state-designated wetlands, the one-hundred-foot adjacent area shall not be disturbed without a New York State Department of Environmental Conservation permit.

P.
Stabilization shall be adequate to prevent erosion located at the outlets of all pipes and paved/riprap channels.

Q.
Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

R.
Development should relate to site conditions and disturbance of steep slopes avoided. Grading should be minimized by utilizing existing topography whenever possible. Roads and driveways shall follow the natural topography to the greatest extent possible.

S.
In areas of severe slopes (exceed 25%), land-disturbing activities are not permitted. A twenty-five-foot buffer must be maintained between any disturbed area and the top of slopes 25% and greater.

T.
Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the City of Rensselaer to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article or Article I of Chapter 145. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the City of Rensselaer.

U.
Maintenance agreements. The City of Rensselaer shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this article entitled "Sample Stormwater Control Facility Maintenance Agreement."

Editor's Note: Schedule B is on file in the City offices.

The City of Rensselaer, in lieu of a maintenance agreement, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this article and Article [I](#) of Chapter [145](#) and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 179-81 Water quality standards.

Any land development activity shall not result in:

A.

An increase in turbidity that will cause a substantial visible contrast to natural conditions in surface waters of New York State;

B.

An increase in suspended, colloidal and settleable solids that will cause deposition or impair the waters for their best uses; or

C.

Residue from oil and floating substances, nor visible oil film, or globules of grease.

§ 179-82 Maintenance during construction.

The applicant or developer of the land development activity or its representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article and Article [I](#) of Chapter [145](#). Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

§ 179-83 Erosion and sediment control inspection.

A.

Inspections required; notification of violation.

(1).

The City of Rensselaer Building and Zoning Administrator or designated agent may require such inspections as necessary to determine compliance with this article and Article [I](#) of Chapter [145](#) and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this article and Article [I](#) of Chapter [145](#) and the SWPPP as approved. To obtain inspections, the applicant shall notify the Zoning Enforcement Officer or designated agent at least 48 hours before the following as required by the SWPPP:

(a).

Start of construction and initial installation of sediment and erosion controls.

(b).

Installation of sediment and erosion measures as site clearing and grading progresses.

(c).

Completion of site clearing.

(d).

Completion of rough grading.

(e).

Completion of final grading.

(f).

Close of the seasonal land development activity.

(g).

Completion of final landscaping.

(h).

Successful establishment of landscaping in public areas.

(2).

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. Corrective actions may include the repair/restoration of off-site impacts. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the City of Rensselaer Building and Zoning Administrator or designated agent.

B.

For land development activities, the applicant shall have a qualified professional conduct an assessment of the site prior to the commencement of construction and certify in an inspection report that the appropriate erosion and sediment controls described in the SWPPP have been adequately installed or implemented to ensure overall preparedness of the site. Following the commencement of construction, site inspections shall be conducted by a qualified professional at least every seven calendar days and within 24 hours of the end of a storm event 0.5 inches or greater. The purpose of such inspections will be to determine the overall effectiveness of the plan and the need for additional control measures. During each inspection, the licensed/certified professional shall record the following information:

(1).

On a site map, indicate the extent of all disturbed site areas and drainage pathways. Indicate site areas that are expected to undergo initial disturbance or significant site work within the next fourteen-day period;

(2).

Indicate on a site map all areas of the site that have undergone temporary or permanent stabilization;

(3).

Indicate all disturbed site areas that have not undergone active site work during the previous fourteen-day period;

(4).

Inspect all sediment control practices and record the approximate degree of sediment accumulation as a percentage of the sediment storage volume;

(5).

Inspect all erosion and sediment control practices and record all maintenance requirements such as verifying the integrity of barrier or diversion systems and containment systems. Identify any evidence of rill or gully erosion occurring on slopes and any loss of stabilizing vegetation or seeding/mulching. Document any excessive deposition of sediment or ponding water along barrier or diversion systems. Record the depth of sediment within containment structures, any erosion near outlet and overflow structures, and verify the ability of rock filters around perforated riser pipes to pass water; and

(6).

All deficiencies that are identified with the implementation of the SWPPP.

C.

A copy of the NOI and a brief description of the project shall be posted at the construction site in a prominent place for public viewing. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the beginning of construction activities to the date of final stabilization. The SWPPP and inspection reports are public documents that the operator must make available for inspection, review and copying by any person within five business days of the operator receiving a written request by such person to review the SWPPP and/or the inspection reports. Copying of documents will be done at the requester's expense.

D.

The operator shall maintain a record of all inspection reports in a site logbook. The site logbook shall be maintained on site and be made available to the City of Rensselaer upon request. The operator shall post at the site, in a publicly accessible location, a summary of the site inspection activities on a monthly basis.

E.

The applicant or developer or its representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.

E.
The Building and Zoning Administrator, or designated agent, shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under Subsection C above.

§ 179-84 Project completion.

A.
Inspections of stormwater management practices (SMPs). The City of Rensselaer Building and Zoning Administrator or designated agent is responsible for conducting inspections of stormwater management practices (permanent water quantity/quality improvement structures). All operators are required to submit as-built plans certified by a professional engineer for any permanent stormwater management practices located on site after final stabilization. [Note: "Final stabilization" means that all soil-disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of 80% has been established or equivalent stabilization measures (such as the use of mulches or geotextile mats) have been employed on all unpaved areas and areas not covered by permanent structures.] The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. Operators shall also provide the owner(s) of such structure(s) with a manual describing the operation and maintenance practices that will be necessary in order for the structure to function as designed. The operator must also certify that the permanent structure(s) has been constructed as described in the SWPPP. This certification can be accomplished by providing to the City of Rensselaer a copy of the notice of termination (NOT) filed with the NYSDEC.

B.
All certified as-built plans, lands, structures, and/or appurtenances to be dedicated to the City of Rensselaer shall be reviewed, inspected and approved by the City of Rensselaer Engineer or designated agent prior to City of Rensselaer acceptance.

C.
Notice of termination (NOT). Upon certification by the operator's licensed/certified professional that a final site inspection has been conducted and that final stabilization has been accomplished and all stormwater management practices have been constructed as described in the SWPPP, the operator shall complete and file a NOT as prescribed by the NYSDEC and file a copy with the City of Rensselaer to notify them that they have complied with § [179-83A](#), and that the project is complete.

§ 179-85 Postconstruction activities.

A.
Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this article and Article I of Chapter [145](#) shall ensure they are operated and maintained to achieve the goals of this article and Article I of Chapter [145](#). Proper operation and maintenance also includes, at a minimum, the following:

(1)
A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article and Article I of Chapter [145](#).

(2)
Written procedures for operation and maintenance and training new maintenance personnel.

(3)
Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § [179-81](#).

B.
Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher-than-usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

C.
Submission of reports. The City of Rensselaer Stormwater Management Officer may require monitoring and reporting from entities subject to this article and Article I of Chapter [145](#) as are necessary to determine compliance with this article and Article I of Chapter [145](#).

D.
Right of entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the City of Rensselaer the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in § [179-85B](#).

[179a SUR Part 1](#) [179b SUR Part 2](#) [179c SUR Part 3](#) [179d SUR Part 4](#) [179e SUR Part 5](#) [179f Schedule of Area and Bulk Regulations](#)